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FORTY-FOURTH PARLIAMENT
FIRST SESSION—FOURTH PERIOD

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

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

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

Printed by authority of the Senate
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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.

### PARTY ABBREVIATIONS

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

### Heads of Parliamentary Departments

- Clerk of the Senate—R Laing
- Clerk of the House of Representatives—D Elder
- Secretary, Department of Parliamentary Services—C Mills
- Parliamentary Budget Officer—P Bowen

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(1) Chosen by the Parliament of New South Wales to fill a casual vacancy (vice R. Carr), pursuant to section 15 of the Constitution.
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<tr>
<td><strong>Prime Minister</strong></td>
<td>The Hon Tony Abbott MP</td>
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<td>Senator the Hon Nigel Scullion</td>
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<td><em>Minister Assisting the Prime Minister for the Public Service</em></td>
<td>Senator the Hon Eric Abetz</td>
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<tr>
<td><em>Minister Assisting the Prime Minister for Women</em></td>
<td>Senator the Hon Michaelia Cash</td>
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<tr>
<td><strong>Parliamentary Secretary to the Prime Minister</strong></td>
<td>The Hon Josh Frydenberg MP</td>
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<tr>
<td><strong>Parliamentary Secretary to the Prime Minister</strong></td>
<td>The Hon Alan Tudge MP</td>
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<tr>
<td><strong>Minister for Infrastructure and Regional Development</strong></td>
<td>The Hon Warren Truss MP</td>
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<tr>
<td>(Deputy Prime Minister)</td>
<td>The Hon Jamie Briggs MP</td>
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<tr>
<td><strong>Minister for Foreign Affairs</strong></td>
<td>The Hon Julie Bishop MP</td>
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<tr>
<td><strong>Minister for Trade and Investment</strong></td>
<td>The Hon Andrew Robb AO MP</td>
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<tr>
<td><strong>Attorney-General</strong></td>
<td>The Hon George Brandis QC</td>
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<tr>
<td><strong>Minister for the Arts</strong></td>
<td>Senator the Hon George Brandis QC</td>
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<tr>
<td>(Vice-President of the Executive Council)</td>
<td>The Hon Michael Keenan MP</td>
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<tr>
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<td><strong>Minister for Justice</strong></td>
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Monday, 24 November 2014

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

STATEMENTS

Palmer United Party

Senator LAMBIE (Tasmania) (10:01): by leave—I rise to inform the Senate of my immediate resignation from the Palmer United Party. I will remain in this place as an independent senator representing my beautiful state of Tasmania to the best of my ability. My decision to serve as an independent senator comes after much thought and after I consulted extensively with my community and family in Tasmania. The message Tasmanians and my family have given me is loud and clear. Indeed, it is almost unanimous. Every Tasmanian I have met has urged me to put the best interests of Tasmania first.

I am now free to negotiate with the government and other members of this parliament in good faith and for the best interests of my Tasmania for reform of the following matters: the Clean Energy Finance Corporation, the renewable energy target, and the unfair cost of transporting passengers, freight and goods across Bass Strait. As an independent senator I can give a 100 per cent guarantee to all Australians that I will never vote for the government's proposed changes to higher education and Medicare co-payments.

I also take this opportunity to plead with the Prime Minister to reconsider his unfair pay offer to the men and women of Australia's Defence Force. He has made a terrible mistake which fundamentally undermines Australia's national security. However, if Mr Abbott admits his mistake, apologises and allocates an extra $121 million to raise the ADF pay offer to 1.5 per cent, as well as returning Christmas leave and travel entitlements, then I feel sure that the Australian people will forgive him and he will be viewed as a better leader.

I acknowledge that speculation about my membership of the Palmer United political party has caused uncertainty for the Tasmanian and Australian people and I apologise for that uncertainty. My resignation today will end that damaging speculation and uncertainty.

Tasmania can once again be a place of great industry, enterprise and prosperity. However, of all the Australian states, we now face the most difficult of social and economic challenges. These challenges and crises in unemployment, especially youth unemployment, education, health and manufacturing can all be solved and overcome. But, in order to do that, I must be free to vote in this Senate in the best interests of Tasmanians. Tasmanians do not want to handout; they just want a fair go and a hand up. Being a member of Palmer United has prevented me from voting in this chamber in a manner that gives my Tasmania the best chance of recovering and, once again, becoming prosperous.

In closing, I would like to address some of the matters raised by Mr Palmer. I do not have the time or the energy to be drawn into a political mud-slinging contest. I will not be drawn into the game of responding to hurtful and false personal attacks. Mr Palmer has been blessed and graced with great wealth and power by God. He has a wonderful opportunity to use that great wealth and power to do a lot of good for many Australians.
After these political matters settle, there will be many opportunities for us to work together in the national interest. I wish Clive and his beautiful family, staff and friends all the very best. I also wish to thank my staff, friends and my beautiful family for their love and unconditional support during this stressful and difficult time.

Before I close, I want to thank from the bottom of my heart the thousands of ordinary Tasmanians who have taken the time to contact me, share their thoughts and express their support for my actions today.

God bless Australia, God bless my Tasmania and our beautiful Southern Cross.

DOCUMENTS

Tabling

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

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

COMMITTEES

Certain Aspects of Queensland Government Administration Committee

Foreign Affairs, Defence and Trade Legislation Committee

Health Committee

Meeting

The Clerk: Proposals to meet have been lodged as follows: by the Select Committee on Certain Aspects of Queensland Government Administration related to Commonwealth Government Affairs, otherwise than in accordance with standing order 33(1) during the sitting of the Senate today, for a private meeting, from 12.45 pm; by the Foreign Affairs, Defence and Trade Legislation Committee, otherwise than in accordance with standing order 33(1) during the sitting of the Senate today, for a private meeting from 1.50 pm, to take evidence for the committee's inquiry into the provisions of the Customs Amendment (Japan-Australia Economic Partnership Agreement Implementation) Bill 2014 and related bill; and by the Select Committee on Health, otherwise than in accordance with standing order 33(1) during the sitting of the Senate today, for a private meeting from 10 am.

The PRESIDENT (10:06): I remind senators that any questions may be put to the Senate at the request of any senator.


The PRESIDENT: The question is that the Select Committee on Certain Aspects of Queensland Government Administration related to Commonwealth Government Affairs to meet during the sitting of the Senate today, other than in accordance with standing order 33(1), be agreed to.

Senator IAN MACDONALD (Queensland) (10:06): Mr President, to be absolutely clear: are you effectively moving the negative or the positive motion?
The PRESIDENT: I am putting the question and if senators vote in the affirmative, then that means that the committee can meet. If senators vote in the negative and that is the majority, then the committee cannot meet. It is a standard motion, as it would ordinarily be put.

Question agreed to.

BILLS

Aged Care and Other Legislation Amendment Bill 2014

Health and Other Services (Compensation) Care Charges (Amendment) Bill 2014

Second Reading

Debate resumed on the motion:

That these bills be now read a second time.

Senator POLLEY (Tasmania) (10:07): Today I rise to speak on the Aged Care and Other Legislation Amendment Bill 2014, to which I will seek to make an amendment, and the Health and Other Services (Compensation) Care Charges (Amendment) Bill 2014. I am waiting for the amendment to be circulated.

Senator Fifield: Is it a second reading amendment?

Senator POLLEY: It is a second reading amendment. I move the opposition's second reading amendment:

At the end of the motion, add:

but the Senate notes that the Government has failed to:

(a) provide alternative assistance in meeting the demands of the aged care workforce;

(b) ensure repurposed funds be utilised for workforce pay, conditions and development;

(c) consult with or inform the aged care sector of:

(i) Budget cuts including the axing of the $653 million Aged Care Payroll Tax Supplement; and

(ii) the axing of the Dementia and Severe Behaviours Supplement until after the 2014 Budget; and

(e) oversee the management of aged care funding as evidenced by the over-subscription of the Dementia and Severe Behaviours Supplement and under-subscription of the Dementia and Cognition and Veterans' Supplements.

Labor will not be opposing the common sense amendments contained in the Health and Other Services (Compensation) Care Charges (Amendment) Bill 2014. We are entirely supportive of the measures which will remove impediments to recovering past care costs for home care. This adjustment simply brings home care into line with arrangements that have dictated residential care. It is a sensible change that Labor will of course not be standing in the way of.

We will also not be opposing the amendments to the Health Care Identifiers Act, which supports the implementation of stage 2 of the aged-care gateway. This stage is vital. It provides a centralised online information portal called My Aged Care. It is just another reform that resulted from Labor's Living Longer, Living Better reforms. The My Aged Care website is an integral component of the gateway and will change the way Australians access the aged-care system. This amendment will allow for the collection, use and disclosure of data for the purposes of this site and I would encourage everyone to use these services and learn
about what is available, both for themselves and their loved ones. The My Aged Care website is up and running and, from next year, will be expanded to include a host of self-service functions for older Australians and service providers. The information about aged-care service availability promises to be a tremendous asset to the sector. It is just another example of how Labor's Living Longer, Living Better reforms were such a game changer for aged care in Australia. Labor was responsible for introducing a comprehensive reform package which ensures that our aged-care system is equipped for the 21st century, a century that will feature the ageing of the baby boomer generation.

Living Longer, Living Better did not just create a fairer and more equitable aged-care system; it created a more sustainable one that will be there for all of us when we reach the latter stages of our lives. I am supportive of our move towards consumer directed care because I think that everyone should be able to choose the care and support options that suit them. My Gateway is a key component of this.

I would like to, once again, congratulate the hard work undertaken by the member for Port Adelaide, Mark Butler, and Senator Collins, who both served as Minister for Mental Health and Ageing during Labor's period in office. We did the heavy lifting when it came to aged-care policy.

The most controversial aspect of the Aged Care and Other Legislation Amendment Bill is that it amends the Aged Care Act to reflect the scrapping of Labor's workforce supplement, a supplement which Labor introduced as part of the Living Longer, Living Better package. It was our objective to dedicate a total of $1.2 billion to improving the pay and conditions of aged-care staff—staff who work tirelessly every day, often in trying circumstances, to care for older Australians who can no longer care for themselves. In this year's budget the axing of this supplement was badged as a 'reprioritisation'. That effectively means that money was handed to providers in the general pool of aged-care funds.

Those opposite will no doubt contend that their scrapping of the workforce supplement was a clear pre-election commitment. Although this is accurate, what they will not tell you is that they have not come up with any alternatives or solutions to address the aged-care workforce crisis that this country faces. When it comes to boosting staff levels, attracting new workers to the sector and improving the conditions of those staff members charged with such immense responsibilities, there is nothing on offer.

We now have a policy-free zone. During Senate estimates in June this year I asked Assistant Minister for Social Services, Senator Fifield, to spell out how his government would address these challenges. As I advised this chamber shortly after, his response was glib and uninspiring. He said, and I quote directly:

The main workforce pressure facing the workforce is bodies, and creating many, many more.

That was it. Let us give the minister a slow clap, maybe a 'Good effort' sticker or something similar. That was his answer as to how the government would solve the pressures faced by a sector under enormous burden to provide care and support for older Australians.

I think it is important that we pause and consider just how serious the situation is. Half of the aged-care workforce will retire in the next 10 years from this sector, a sector which, I would like to remind those opposite, has a high turnover of staff resulting, at least in part,
from low pay and trying conditions. It may shock many people to learn that nurses working in aged care are paid far less than those nurses working in hospitals.

The Australian Nursing and Midwifery Federation has actually reported that there is a difference of $210 per week nationally. I remind you that these are the nurses who are responsible for caring for some of the nation's most vulnerable people. They are older Australians who require extra help and support, including people with severe symptoms of dementia and who are at risk of harming themselves and those around them. We simply cannot put these people, who rely on aged-care workers, in the too-hard basket.

Shayne Neumann and I took the opportunity to meet with aged-care workers across the nation. Indeed, I have been fortunate enough to visit residential facilities in my home state of Tasmania in Launceston, Hobart and Smithton and have travelled to Melbourne, Brisbane, Sydney and Adelaide to meet with residents and staff and to learn from their experiences. I have been thoroughly impressed by their dedication, hard work and compassion and I shake my head in wonderment at how they perform so much exhausting work without complaint. I think it goes without saying that they do not enter this line of work to be handsomely remunerated. But that certainly does not mean that they do not deserve a welcome boost in pay and conditions. They are currently being penalised and we on this side of the chamber think they deserve better.

The workforce as a whole is under tremendous pressure and this pressure will only grow as the nation's population ages. Aged care will become more and more complex as those in the sector deal with an ageing population suffering from dementia and age-related chronic diseases.

As the shadow minister for ageing noted in his remarks on this bill, 'Australia will need a 300 per cent increase in workers to care for our ageing population by the middle of this century.' So we clearly need a plan, we need leadership and we need direction, but those opposite have been completely derelict in their duty. Just 18 days after assuming power, the Abbott government axed the workforce supplement sneakily by legislative instrument. When we tried to disallow this instrument late last year, they actually suspended standing orders to push through an allowance motion. This motion, in effect, prevented any payments of the workforce supplement. What is even more galling is that they gagged debate so that no-one could speak about aged-care workforce pressures in their home states and territories—and, just like that, some $1.1 billion was taken away from the aged-care workers. These are workers who hoped that Labor would deliver them some relief. I want to be clear: the Abbott government has acted with unmitigated malice in overturning the workforce supplement, which would have given 350,000 aged-care workers much-needed enhancements to their pay and conditions.

The government will also be quick to mention that this 'reprioritisation' did result in the remaining workforce supplement funds—a total of $1.1 billion—being handed to providers. Whilst it is the case that the supplement funds were diverted back to providers to spend at their discretion, in practice what this means is that many aged-care workers will see no improvements in their pay or conditions. There are two reasons for this. First of all, the reprioritised workforce supplement was handed back to providers in the form of a topped-up subsidy. However—and this is crucial—there was no conditionality tied to these funds. There was no expectation or requirement that any percentage of these funds would be used to
improve wages, conditions or career development. As the member for Blair said during his speech on this bill:

... with no conditionality there is nothing to ensure that that money is available and will go towards the challenge of making sure the lowest paid workers in the country get the necessary wages and conditions they deserve.

Second of all, this budget measure—the 're prioritisation' of the workforce supplement—was accompanied by a host of other cruel cuts which this sector has had to endure. The axing of the aged-care payroll tax supplement meant that for-profit providers, many of whom already exist on slim profit margins, have had to recalculate how they would run their businesses. The axing of this supplement, valued at $653 million over four years, may yet send many providers, particularly those in remote and regional areas, to the wall. But there was more. Joe Hockey also made changes to the indexation of pensions. This affects the bottom line of providers since they calculate their fees according to a percentage of this very pension.

The budget was not just a cruel one for senior Australians; it impacted on the entire aged-care sector. The cuts were never raised with the sector or aged-care bodies prior to the election or, indeed, in the lead-up to the budget. Rather, the Abbott government shocked many with these changes, even though it promised to be a no-excuses, no-surprises government. Therefore, when you actually examine the situation in its entirety, there is little prospect of providers using the 're prioritised' funds to boost the pay and conditions of staff when they have had to make up for other cuts imposed by this year's budget.

But, of course, there was more to come post-budget—another nasty surprise from team Abbott. I have spoken on numerous occasions in this chamber about the axing of the dementia and severe behaviours supplement, a supplement designed by Labor that provided an extra $16 dollars a day to providers caring for people with severe psychological and behavioural problems associated with dementia. The sector was absolutely stunned when, on 26 June this year, Senator Fifield stood up in question time and announced that the supplement would be scrapped—just like that. Aged-care providers and representative bodies had been kept completely in the dark and then the rug was pulled out from under them. It really is a sad state of affairs. Documents we have obtained under freedom of information reveal just how inattentive the minister was in monitoring this supplement, which had only been operating for one month prior to the coalition taking power. We now know that no-one was monitoring the supplement until it was too late. In fact, it was a question on notice that I put to the department that in part sparked any sort of action.

Do not let the government tell you otherwise; this was a supplement that needed careful attention from a competent administration. Unfortunately, that was not what happened because the minister was asleep at the wheel. It had been estimated that the supplement would apply to approximately one per cent of all residents—in other words, a very small percentage of residents who exhibit severe psychological and behavioural problems associated with dementia, roughly 2,000 nationwide. But the number of people who qualified under the supplement had actually ballooned under the government's watch to some 22,000.

When the information obtained via freedom of information is analysed carefully, it becomes clear that some important questions need to be asked. One that I am intent to get to the bottom of is this: would the situation have been different if the minister and his office
were properly prepared to manage aged-care administration? As the member for Blair said in that other place:

They have an assistant minister whose major responsibility is the NDIS. They have an assistant minister who did not even have a departmental aged-care adviser in his office until March this year. Seven months after the election he finally gets an adviser in his office, and the government finally realises, after we ask questions, that there is a problem.

Would the management and monitoring of this supplement have gone differently if the office was structured properly to handle such responsibilities in the first place? I guess we will never know, but, once again, this entire issue has reinforced why it is so important to have a minister focused on aged-care responsibilities and an office set up to accommodate this. But that is not what we have; we have a minister with his mind elsewhere who is shrugging his shoulders and unable or unwilling to act.

I would like to echo the sentiments expressed by the member for Blair: when it comes to the dementia supplement, the government did not realise there were issues with this implementation because of its own incompetence and inattention to monitoring. What is worse is that, even when it was clear that there were problems, the minister panicked and ripped away the supplement without warning and without any sort of replacement scheme ready. That was 150 days ago and we are still waiting.

In a minute of 4 February 2014, the department said it would write to the peak bodies and consult with the sector—but this did not happen. There was no real consultation; the supplement was axed without warning. In fact, not one peak body or major provider can recall receiving any correspondence or speaking with the assistant minister, his office or the department about the dementia supplement. I am informed that they learnt about this issue at the same time the rest of us did: at Senate estimates on 5 June 2014, when the assistant minister made his statement before the committee.

Even if we were to excuse this lack of consultation—which, of course, we should not—you would think that the minister would have had a plan B in place. But he did not. The supplement was scrapped on 26 June and we still do not have a replacement scheme in place. The department actually recommended that the minister fund interim projects while a new payment was being developed, and these could be pursued with the aged-care sector committee. In May, the minister wrote to the secretary of the department confirming he had agreed to terminate the supplement and agreed to develop both ‘an interim and an ongoing measure’. But what happened? Aged-care providers caring for vulnerable people with severe symptoms of dementia are still waiting. Those people suffering from this insidious disease in the most traumatic way are still waiting. Indeed, the entire sector is still waiting. They want leadership, they want answers and they want proper support to care for people who can no longer care for themselves. By Sunday it will be 150 days since the supplement was axed without warning. That is 150 days of neglect and 150 days of uncertainty for people with severe psychological and behavioural problems associated with dementia and those who care for them—150 days that demonstrate just how incompetent and inattentive this government has been.

What can the people of Australia think when a minister axes this supplement without any plans, without any vision and without any ideas about how the government will address the need for extra funding of staff and extra programs to help deal with those people with severe
behavioural problems associated with dementia? Do you know what they are saying to me? They are saying that the minister has gone to sleep at the wheel. This is a minister who is not interested in the aged-care sector. This is a minister who failed to even go to Tasmania on Friday to open a new facility after the invitations were sent out. So the people of Tasmania are saying, 'This minister certainly does not care about aged care.'

We on this side are asking for the government to prioritise aged-care funding in this country. Shayne Neumann from the other place and I believe that there ought to be a minister for ageing, a minister who is focused on this enormous, confronting issue of the ageing population. But we have also heard time and time again from the aged care sector that they want a minister. They want a government who is going to give the priority to aged care that it deserves. We all know—and I have spoken about it today—about the challenges for the aged care sector in finding competent, good, caring staff. What has this government done? It has done nothing but take away the supplement that was going to remunerate those staff so that they would at least be given extra reinforcement, not only in terms of money but in knowing that this government cared about the very important job they are doing within the sector. But we have heard nothing. I do not know how many times I have come into this chamber and challenged the assistant minister for ageing to come in and explain to us what his government is going to do.

I am very happy with and very proud of what Labor did when we were in office. Living Longer, Living Better set the framework for aged care and for ageing Australians going into the next decade. But we cannot sit back and just allow this government to ride the coat-tails of the former Labor government. I am passionate, as Shayne Neumann is, about aged care. I have yet to see any display of that whatsoever from this government. We need to build on Living Longer, Living Better. There are enormous challenges there and I call on the minister who is here in the chamber to enter this debate today, to put on the public record what he is going to do. What programs and what assistance is there going to be for those people suffering with dementia or severe psychological and behavioural issues? What is his government going to be doing to ensure going forward that we have the people available to work in this sector, to look after some of Australia's most vulnerable people?

I recently visited an aged-care facility that deals with people who have been living on the streets, who have been homeless. They are confronted daily with issues around dementia and severe behaviour problems. Those people, just like all other Australians, deserve a better outcome from this government. They deserve compassion. They deserve the best qualified staff supporting them. The people working in this sector deserve the opportunity to have a real career path. If you are working in an acute-care hospital as a nurse, you should have the opportunity to go and work in aged care and get paid the same amount of money. Since when do we as Australians consider ageing and older Australians less valuable than the rest of the community? I say that we on this side do not. I call on the minister to enter the debate and answer some of these questions that have been outstanding and to resolve the issue about dementia funding.

**Senator SIEWERT** (Western Australia—Australian Greens Whip) (10:27): I rise to contribute to the debate on this legislation, the Aged Care and Other Legislation Amendment Bill 2014 and the Health and Other Services (Compensation) Care Charges (Amendment) Bill 2014. This package of legislation introduces several amendments to aged care and health
related legislation as part of the recent reforms to the aged-care system in Australia. I should say that some of it unpicks some of the recent reforms to the aged-care system in Australia.

Together, these bills enact the government's 2014 budget measure to 'reprioritise' the aged care workforce supplement, amend the Healthcare Identifiers Act 2010 to support the implementation of the My Aged Care Gateway, make minor clarifying and technical amendments arising from recent changes to aged care, and amend the Health and Other Services (Compensation) Act 1995 to overcome current impediments to the recovery of past home care costs for care recipients who receive a compensation payment.

Most of these points the Greens support and do not have a problem with. They are quite sensible amendments. It is unfortunate that they have been lumped in with the government's so-called reprioritisation of the aged care workforce supplement. This is one of the budget measures that the government have unfortunately combined with these other measures and something they said they would change when they come into government. Unfortunately, it is one of those promises that they are keeping, unlike the promise not to cut the ABC or SBS or myriad other promises that they have failed to keep. I wish they had failed to keep this one.

The Greens, unfortunately, cannot support this package of legislation, because the government are changing the aged care workforce supplement. It was a part of the Living Longer, Living Better package and we believe it was a key part of that package in that it addressed the historically poor wages for those working in aged care. Unfortunately, while we would like to support this package of legislation we cannot because of that particular measure.

The Australian Greens participated extensively in the debate and the negotiations on the Living Longer, Living Better aged care reform package that was passed under the previous government. We secured a number of important amendments to the aged-care package. The aged care workforce supplement is a component of the aged care reform package, as I said earlier, and provides a mechanism to improve the wages of aged-care workers. Under the Living Longer, Living Better package there were changes to the workforce supplement because some of the aged-care providers expressed concern about some of the mechanisms. So some changes were negotiated, which I know some of the unions and aged-care workers were not particularly happy with. In fact, some amendments eased some of the requirements, but we believe it met some concerns of the providers.

It is extremely disappointing that a government that says it cares about older Australians—and I will come to that point in more detail shortly—sees fit to cut the key mechanism that ensures that aged-care workers get pay rises and that the supplement is actually spent on aged-care workers. Under this bill, the $1.1 billion funding for the aged care workforce supplement will be redirected to residential care, home care and flexible care providers of aged-care services in the form of an increase in their basic subsidy.

This is the key part: this measure removes the guarantee of an increase in the wages paid to workers in the aged-care sector and that is extremely important. In the past we have seen that, without this guarantee, extra payments to providers do not end up in the pockets of aged-care workers, despite providers—and I am not slagging off providers—having made assurances in the past that when they got some extra funding it would go towards paying additional wages for aged-care workers. It has not resulted in better wages for aged-care workers.
The Greens oppose the government's efforts to dismantle this important component of the Living Longer, Living Better package of aged-care reforms. We remain strong advocates for the aged-care sector, including aged-care workers. They are an essential component of the aged-care sector and here we have the government undermining the very mechanism that could ensure that some of the lowest paid workers in this country actually do get better pay for the services they provide.

Aged-care workers are some of the lowest paid workers in Australia. Aged-care workers will miss out on this funding. As the name suggests, this funding was to be a supplement and would improve the wages of some of the lowest paid workers in this country. The replacement of this subsidy will not end up helping aged-care workers. As I said before, past experience has shown that in fact that is not the case. We maintain that the money should go towards the challenge of ensuring that some of the lowest paid workers in this country get the necessary wages and conditions that they deserve for the work and effort they put in.

We have difficulty attracting skilled and trained workers to the aged-care sector. Surveys of the aged-care sector show that service providers can experience difficulties in attracting and retaining sufficient numbers of appropriately skilled and trained workers to care for the growing number of older Australians.

Competitive wages are essential for attracting and retaining high-quality aged-care workers and ensuring that the highest possible quality of care for older Australians is maintained. This measure undermines that.

A key finding of the Senate Community Affairs References Committee inquiry into dementia and complex behaviours was the absolute importance and essential nature of having highly skilled and trained staff who actually have the skills and competencies to support people with dementia. It was emphasised again and again that staff who have the skills are essential for managing behaviours. If they are trained and skilled in understanding the complex behaviours and cognitive impairments of those with dementia, it actually changes the whole nature of the way that people with dementia are treated in the aged-care setting. If workers understand the nature of dementia and how to manage these complex behaviours, it actually affects the restraints that must be used, such as chemical or physical restraints, and it changes the person's whole life experience and quality of life in the aged-care facility and also in the home-care setting.

Senator Polley has gone through the issues around the dementia supplement. That, of course, is also very important, but the training of people in understanding dementia and cognitive impairment and how their treatment of people with dementia—including, as I said, the need for restraints—changes the quality of life of sufferers is crucial. This sort of cutting of wages deters people from going into that sector and certainly does not provide encouragement to get training, because it is specialty training, in dementia and the cognitive issues that go with dementia. It was quite plain during the inquiry that we held that it is essential that people have this training. Where are the incentive, support and reward for people to attain the very important, specific skills that are needed? There is no incentive when the government, by cutting the supplement, says, 'You're not important—we're going to treat you as second-class citizens and continue to treat you as some of the lowest paid workers in this country. We don't value the contribution that you make. We don't care about the fact that,
if the pay is so low, the sector won't be able to attract workers or encourage people to attain the skills that are needed to deliver the services that are needed.’

All the statistics at the moment show the dreadful fact that the rate of dementia is increasing in this country, and we can expect that far more people with dementia will need support and care as the population ages. Already we have a growing older population in this country. We know there will be a growing cohort of people suffering from dementia who will need high levels of care—it will not be called high care and low care into the future under the reforms. The government is saying that, as the population ages and the cohorts of people with dementia increase, we will not ensure that the people caring for those people will be rewarded through better wages.

Aged-care workers have fought for years to get better recompense for the hard yards they put in—and they do put in the hard yards. We need to attract more workers to aged care. I have just said how providers are saying that they are finding it hard to find and attract people to work in this sector—because the wages are so low and because it is challenging work, particularly in attaining the skills that are needed and particularly in caring for those with dementia, with the resultant complex behaviours.

The aged-care sector in this country is under increasing pressure as Australia's median age continues to rise. Australia's population is growing and ageing as a result of longer life expectancy and changes to fertility rates. With existing employment models, this trend will see a smaller and younger workforce faced with a growing number of older Australians. It is a bad time to abandon the aged-care sector and aged-care workers when, for the first time in Australia's history, we have more people turning pension age each year and we have an ageing workforce. This will place enormous pressure on the system. How will we ensure that we have a trained and skilled workforce in our aged-care sector? We also know that the trend has been toward the higher end—at the moment, it is called high care. We know that people have been staying at home longer and moving into aged care when they are older and have more complex issues—in other words, requiring high-end care. What we are saying here is that we do not care about the workers who are working in that sector. We do not care about the fact that we need to be attracting people into the sector.

On that, we know that there is a growing need for care in other sectors. We know that under the National Disability Insurance Scheme we are going to have an increasing need for carers and that we are not ramped up for that yet. That is an issue that requires very serious discussion. We also know that under the HACC we are also going to need more people working in the care sector. In aged care we also know that we are going to have a growing need for care. What we are not seeing is investment through the supplement into providing the necessary wages and growth of wages for those that are working in aged care. It sends a very poor message to existing workers in the aged-care sector, and it also sends a poor message to those that may be thinking of going into the aged-care sector.

I will come back to the issue of not necessarily believing that employers and providers are actually going to pass on this supplement as it goes more directly to the providers. We know from past experience that, where additional money has been put into the system, it has not translated into a growth in aged-care workers' pay. In fact, if it had, we might not be in the situation that we are in now, where our aged-care workers are some of the lowest paid in the country. So, at the very time when we are talking about the escalating requirements and skills
required for aged care with an ageing population, we are not investing in the workforce itself. We are going to find ourselves down the track with the lowest paid workers in the system, and in the care system in particular, at a time when we desperately need to be attracting people into working in the aged-care sector.

This is a step backwards, and it is nothing short of an ideological approach by the government because they do not want to see a mechanism that ensures workers continue to get paid. The previous government did compromise on this particular issue and make it a bit easier for the providers to be able to negotiate on the timing of this supplement and the way it rolls out. We agreed to that reluctantly, because we thought it compromised the ability of providers to attract workers and of workers to get a slight increase in their wages, but we thought it was a satisfactory outcome where providers were, we thought, happy. This is an approach by government, ideologically driven, that undermines the wages and support for some of the lowest paid workers in the country.

We do not support this change. It is untenable that the government thinks it is okay to take money—we are talking about $1.1 billion here—that should go to aged-care workers who do a magnificent job helping older Australians and providing care and support to some of the most vulnerable members of our community—that is, older Australians and, in particular, those older Australians with dementia who have to receive specialist support for complex behaviours.

This undermines the future of aged care, just changing it to put the money into the pockets of providers—who do an excellent job, and again I will say I am not having a go at providers. But, when additional supplements have been provided without the necessary requirements for that money to be translated into workers' pay, we know from past experience that that has not occurred. This will happen again. If I were an aged-care worker at the moment, I would be extremely concerned that I would not see the increase in my wages that I expected when Living Longer Living Better was announced. Part of aged-care reform has to include increased recompense and remuneration for the workers who keep that system going, because (a) it is fair and (b) we are not going to see an aged-care system that provides the sort of care that is required if we do not address the issue of remuneration for the workers that provide that care.

It is greatly disappointing that I am unable to support this legislation, despite the fact that there are many amendments that we could support. The overriding focus of this legislation is gutting the wages of some of the most vulnerable and lowest paid workers in this country, and the Greens cannot support that move.

Senator LINES (Western Australia) (10:44): I too rise to speak on the Aged Care and Other Legislation Amendment Bill 2014. Mr Acting Deputy President Sterle, you would know full well that I have very intimate knowledge of the aged-care sector as the former assistant secretary of United Voice, one of the key aged-care unions in this country. Prior to coming to the Senate, I spent probably three years of my working life intimately involved with the Living Longer, Living Better package. It was the most amazing transformation. As a longstanding former union official, it was very hard at times to get complete agreement between employers and unions—as you would know, Mr Acting Deputy President—but, in the Living Longer, Living Better package, the unions and the whole of the aged-care sector managed to present to the Labor government and to the minister at the time, Minister Butler, a
package of amendments that we thought the aged-care sector needed. We did that as a group who came together under an association called the National Aged Care Alliance.

It has an interesting history because the only other time that employers and unions in this sector came together was when the Howard government was in power and Bronwyn Bishop, as the aged-care minister, managed to unite the whole sector against her. The National Aged Care Alliance, of which United Voice was a member—and I was the representative on that body for a significant period of time—formed because of the mean-spirited kinds of reforms we saw under the Howard government.

The National Aged Care Alliance brings together almost every body working right across the aged-care sector. Whether it is the nursing home sector, home care, physiotherapy or any of the attendant services, they all are members of the National Aged Care Alliance. When the Labor government came into power, that alliance saw an opportunity for real change. As we know, we have an ageing population and new generations of people want to be cared for at home, as indeed older and past generations wanted to be cared for at home. As a sector, we also knew that, whilst there are very fine aged-care facilities in our community and fabulous community care services, there are just not enough of them. We knew that was a critical issue. We also knew that low-paid aged-care work was a critical issue.

It was absolutely amazing to see employers coming together with unions such as United Voice to say to a Labor government, 'We have to act on wages. If we do everything else in the package, including delivering more facilities and more options for home care and all of the other wonderful reforms that came out of Living Longer, Living Better but we don't address the wages, we've done nothing. We won't be able to deliver real reform.' The sector came together and worked together for two or three years. We had the Productivity Commission inquiry into aged care, which all of us worked extremely hard on, putting submissions in and meeting with the commissioners. They addressed the National Aged Care Alliance on three or four occasions. The Productivity Commission really took the National Aged Care Alliance recommendations to heart. We produced an agreed list of recommendations. There were 20 or 30—I cannot remember the precise number, but they were all agreed. They included addressing the low-paid wages of aged-care workers right across the spectrum.

You might ask, quite rightly, why the wages are so low. Of course, historically this is a sector that has women workers. Most of the workforce are women and, historically, women's wages have remained behind those of men in equivalent roles in our community. Certainly during my involvement in the late 1980s, believe it or not, aged-care wages were then parallel with those in other sectors. However, over time, because of women's well-documented inability to bargain as successfully as male counterparts and also because they were in a sector where there is not a lot of spare cash around, despite having a very long history of bargaining—and most of the major employers in the aged-care sector in Australia are covered by enterprise bargaining agreements—they sit barely above the award, by $1 or $2. That is because there is not a lot of fat in the system. It is not an industry that runs on big profits, although there are profits there. It is hard slog when you have to sit down and face individual employers across the negotiating table to try to get a better outcome for members. The award rate is about $18, $19, $20 an hour for an aged-care worker. Of course, what adds to their take-home pay, as you would know, Mr Acting Deputy President Sterle, are penalty rates. Penalty rates are an absolute critical part of an aged-care worker's take-home pay, because
they work outside normal hours and unsocial hours, they work on Saturdays and Sundays, and they miss out on time with their families, for which they receive a penalty payment.

We know that the Abbott government has an agenda to get rid of penalty rates in this country. We already have a crisis concerning workers in this country, particularly in the aged-care workforce. Imagine if you earn $20 an hour and, on average, you work 30 hours a week, because aged-care workers are not full-time workers, you could not survive. We would see a mass exodus of workers from that sector, if the government is successful in getting its agenda of getting rid of penalty rates up and running. The government is out there in the hospitality industry, trying to make that the first cab off the rank. We know that the retail sector is under threat and then there is aged-care and all the other areas where Australian workers earn penalty rates, as they should. If you give up a Sunday, when your family is out enjoying each other's company, to supplement a very meagre income you should be entitled to a penalty payment.

I need to put on the record, because I would not want the government to start jumping up and down, that Labor is not opposing these bills. But we do believe that the government has gone way too far in what it is doing.

Whilst the sector, including the unions, were negotiating and coming up with an agreed set of recommendations on the Living Longer, Living Better package, the then opposition were completely missing in action. They were nowhere to be seen. In the end, they supported the measures because, at least, they recognised that we have a problem because we have an ageing population. However, I can absolutely say to you that during all of the discussions and consultations we had when the National Aged Care Alliance drew up its agreed package, the opposition were nowhere to be seen. They took no interest at all in a very significant issue in this country, aged care.

It is fair to say that the National Aged Care Alliance did not get everything that we wanted. But as those of us who have had lives as union officials know, sometimes—in fact, many times—you do not always get everything you want. But we did get up a package of amendments that we continued to support. They included a better pay for aged-care workers. As a union official, it was one of my proudest moments to hear employers advocating really strongly to the Labor government that it had to act on wages. Why? Because, after 20 years or more of bargaining in the aged-care sector, we were not able to lift the wages to a wage that would provide a good-living income.

So as a sector, not just the unions—and we know how the Abbott government likes to really bash unions; at every opportunity it likes to bash unions—we said to government that this was an agreed position. This was the position of the National Aged Care Alliance. It was the position of all of the major employers in the country that government needed to provide a supplement. That supplement—significant amounts of money, all paid for, put in the budget, all there—would have provided about 30c an hour on an aged-care worker's hourly rate. That is not a huge amount of money, but that would have lifted that base rate to enable bargaining to add more to that. It was not a one-off. It was there to say, 'Let's make the hourly rate a certain level'—it was about 30c an hour more than aged-care workers were getting—and that just lifts the floor so that employers can continue to build on that. It creates a lift, and that is what is needed in the aged-care sector right across the sector. That lift was needed.
If the Abbott government want to say that it was some dirty deal between a few employers and a few unions in the sector, they are completely wrong. When we got down to the nuts and bolts of the issue—and, before I get on to that, I would like to say that most unions would say that the Productivity Commission is probably not a friend of unions, but the Productivity Commission in and of itself said that the aged-care workforce wages were very low. In its document, it also pointed out that, if the government did nothing else around this package, it had to do something about wages. So the recognition was there from the employers, from the Productivity Commission and from the unions that wages had to be a central part of a Living Longer, Living Better package.

The Labor government's budget put the aged-care supplement money in place. Again, the Labor government did not seek to dictate to the sector about how that money would be apportioned. It set the challenge for the unions and the employers, through their associations, to sit down under the auspices of an industrial commissioner and work out how to do that. Sure, we had some arguments, but we all know that, when you negotiate, you win some and you lose some, and there are some fierce arguments along the way. But, again, we came out with an agreed position. We came out with an agreed position because the sector itself, employers and unions, was committed to doing something about aged-care workers.

But again we see, of course, that the Abbott government, with its ideological push, its hatred of unions and its belief through its Tea Party agenda that individuals need to look after themselves, just wants to take all of that good work away. All of that process agreed by employers and unions, all of those agreed and hard negotiations that we did with the support of an industrial commissioner—all of that it just wants to throw away. It wants to go back to a system which has failed in the past. We know that under the Abbott government we had a system where additional funds were put through an instrument called COPO, and it was supposed to go to workers. And guess what, Mr Acting Deputy President Sterle? I am sure you would not be surprised to learn that not one cent of that money ever found its way into a worker's pocket.

If the government needs another example, it only needs to look at the disability sector in Western Australia, where the Barnett government made provision for additional wages to be given to disability services workers, but again it was not through any transparent legislative process but just through direct funding to employers. I can tell you that that has left a very sour taste in the mouths of disability workers—who, believe it or not, are paid even less than aged-care workers—because not one cent of that money went to workers. It went to cars. It went to CEOs. But it certainly did not go to workers.

Aged-care employers in this country signed up to a designated hourly rate, and it was completely above board. But we know that just putting the money out there and not requiring any transparency and any accountability will mean that the money will not go into workers' pockets. Alternatively, it will go into one area of the workforce. The unions in this sector do not always agree, but what the unions did agree on was that the supplement should be distributed fairly to all of the sector—not just to nurses, not just to aged-care workers but to everyone in the sector—because that is a fair way. Everyone's wages need to be lifted. But, now, if some of this money does find its way to the pockets of workers, you could reward a manager of your aged-care facility. They could receive all of this money. There is no
guarantee at all that, first, the money will get there and that, second, it will go to the lowest paid.

So we will continue to see under the Abbott government an exodus of quality workers. Many of the aged-care nurses and aged-care staff who are members of United Voice are amazing people who do the most dedicated job of caring for aged-care people in our community, some of the most vulnerable people in the community. These workers sit with people in their dying moments. These workers have the most vulnerable people in our community dying in their arms. That happens on a weekly basis. The last moments, the last breaths, of those in our community in their twilight years are witnessed by low-paid aged-care workers.

The Abbott government are so mean and so ideologically driven that they will not sign up to something that Labor put in place. That is the reason that they will not sign up to it; Labor put it in place. But if they have an issue with that, let us look at the history of this. It was the National Aged Care Alliance who really pushed for these changes. Yes, Minister Butler was a very popular minister and a minister who listened and who cared. Unfortunately, we are not seeing any of that now. So the aged-care workforce will continue to be low paid and will continue to have a very high turnover, at a time when our seniors should be guaranteed that the staff that they get to know, and who love them and whom they love in return, are going to stay there.

But the government do not care. As I say, they were completely absent during the whole of the time that we were negotiating the Living Longer, Living Better package. To take that funding away from the workforce is a disgrace—and the workforce will not forget that. They know who promised them a fair deal. They know that it was Labor who promised a fair deal. And they know who has taken the money out of their pockets.

This cruel attack on these low-paid workers comes on top of the freezing of superannuation. So this group of workers have low retirement savings, but the Abbott government wants to make them lower. So, in the future, this group of workers will be more reliant on benefits from the government, instead of being able to stand on their own two feet—one, with a better wage in aged care, which the Abbott government has stolen from them; and, two, with decent superannuation savings, which the Abbott government has also stolen from them. Talk about not thinking for the future!

I have had a lot of correspondence from aged-care employers in Western Australia about the removal of the payroll tax supplement. That has hit them hard. Certain parts of this sector are doing well but in other areas many providers are doing a very good service and not making huge profits—and, I would argue, they should not anyway—and losing that payroll supplement has hurt. So, again, we see an Abbott government with no clear policy on aged care—just its same old, same old, 'Let's attack workers; let's hit them in the pockets; and let's just give this money to employers and they can use it as they wish.' It is a disgraceful move.

Senator XENOPHON (South Australia) (11:04): I will make a brief contribution on the Aged Care and Other Legislation Amendment Bill 2014 and related bill, but the brevity of my contribution should be seen as inversely proportional to the importance of this issue. I will be supporting this legislation but I will be doing so reluctantly. I agree with Senator Lines that this was not a dirty deal between the unions and the former government. But it was a messy deal—and I will get into that shortly.
I have a number of concerns in relation to this bill. First among them is the government's winding back of the workforce supplement for aged-care workers. I understand that the passage of this bill will not change the fact that the money has been rolled over into payments to providers. The money is, in effect, gone, and opposing this bill will not change that. I do note that there is a second reading amendment, which I think has a lot of merit. It talks about the failure of the government to deal with a number of issues in respect of aged care. Whilst that second reading amendment is not binding on this parliament, it is a statement of fact that more needs to be done and that there are policy voids that need to be dealt with as a matter of some urgency.

I raised concerns about the former government's practice of providing what some would regard as artificial pay rises through legislation last year in reference to both the child-care and aged-care sectors. They are both sectors that are doing it pretty tough. In the child-care sector, you get to a tipping point where, if child-care fees become less and less affordable, more and more people will take their children out of childcare and come to alternative—and, in some cases, less than satisfactory—arrangements or, mainly, women will simply stop participating in the workforce, which is a double whammy in terms of the impact it has on our economy arrangements and it also pushes up the price of childcare as more and more people dip out of the sector.

The aged-care sector has some parallel issues in terms of the viability of the aged-care sector. It is a tough sector to be in. It is a sector where affordability is also important. The rules have recently been changed, engineered by former minister Mark Butler. I think a number of those change were quite good and sensible changes in order to make the sector more robust and more sustainable, but it is a very tough sector to be in. As more and more Australians are getting older, there will be a need to support this growing number of patients, customers or clients of the aged-care sector and there will be more and more pressure in terms of finite resources. As I said at the time, there is no doubt that the workers in both of these sectors deserve to have higher rates of pay. But the roundabout way the former government approached this, in a sense circumventing the Fair Work process, put workers at risk and potential disadvantage. It was the ad hoc nature of it that I was concerned about, including in the childcare sector.

The current government's reallocation of the supplement has sadly validated my concerns. Because the former government did not go through Fair Work and because of the way it chose to artificially raise wages, the current government has been able to simply take the money back again. This has, in a sense, left workers worse off than they were before—not strictly in a monetary sense, but in the sense that they expected a pay rise and have likely acted accordingly only to find they are not receiving it after all—and this is simply unfair. I have significant concerns that the measures that were supposed to reform the aged-care system may not be achieving the changes that we need. My reluctance to support this bill is based on these concerns. I do acknowledge the comments of Glenn Rees, the CEO of Alzheimer's Australia, who: firstly, agreed with the union position that 'the $1.1 billion should not be returned to the sector without clear accountability requirements on how the funding will meet wage parity objectives' and, secondly, said that the 'possible conditions raised by providers during discussions did not go far enough to achieve the level of accountability and transparency consumers and unions were seeking'. These are matters that I hope will be explored in the
committee stage of this bill. I presume either my crossbench colleagues or the opposition will be pursuing that, as it should be.

These issues are of vital importance in my home state of South Australia because of its ageing population—it has the most aged demographic on the mainland; however, these issues also affect us on a personal level as our own families age and we face the reality of seeking the appropriate care for our parents or other relatives. Older Australians are relying on us to ensure that the system provides care and support and, most of all, dignity to our senior citizens.

Senator BULLOCK (Western Australia) (11:09): In my maiden speech I said that I would always look at legislation from the point of view of shop assistants. After 37 years of representing their interests, shop assistants, to me, are the very salt of the earth, their views epitomising those of everyday, hard-working Australians.

Everyday Australians are a fair lot. They want to work hard, but they also believe there should be time for rest and family. They do not want handouts, but they do believe in giving every person a chance. They believe in private enterprise, but they also believe that the community, through our elected governments, has a duty to care and a responsibility to support vulnerable people—the aged, those with a disability and those who find themselves on the wrong side of advantage. This is what Australians mean when they talk about a 'fair go'. It is not some political slogan; it is the idea of reward for effort and of contributing to a community, a community which will support those in need of a bit of a hand. I promised to look at every piece of legislation from the perspective of the ordinary Australian. I am keeping that promise and, in this instance, the government is found wanting.

Today, I want to focus on one particular aspect of this bill: the government's abolition of the dementia and severe behaviours supplement payment. This payment, all of $16.15 a day, has not only been cut entirely by the government but the cut has also been effected without any meaningful consultation and without any warning. Aged-care homes and those who care for people with dementia have suddenly found themselves denied this important support. The former Labor government instituted the supplement in recognition of and in response to the higher needs of those suffering from dementia, recognising that for carers and those working in aged-care facilities patients with dementia present a much greater challenge.

Dementia can give rise to a huge range of behaviours and symptoms. These can include psychosis, psychotic behaviours, aggression, a lack of inhibition and control, hallucination or severe depression. These symptoms affect not only those suffering from the affliction but also impact upon those who care for them. Apparently, according to this government, those people in our community who suffer from such symptoms should now stop leaning and do their share of the lifting to put the budget back into surplus. The dementia and severe behaviours supplement funded programs, services, staff and supports that helped aged-care providers deal with these issues. It gave families peace of mind. It gave security to other residents and staff. It enabled care providers to effectively plan to cope with a future in which the number of Australians affected by dementia, currently 330,000, is predicted to increase sharply in coming years in line with our aging population. Now all of those services have been ripped away—indiscriminately. Instead of keeping carers in the dark, ministers could have been working with the Department of Social Services, with stakeholders, with carers, with aged-
care providers to properly cater for the needs of dementia sufferers. They prefer to slash the support and hang the consequences.

Let us examine in order the events that led to this appallingly misconceived decision. First, the government promised that they would not act rashly in addressing the budget measures involved in the field of aged care. Second, after just one roundtable meeting and with no warning at all, the government abolished the dementia and severe behaviours supplement lock, stock and barrel. This is no way for a responsible government to behave. In the election campaign, the now Prime Minister assured the Australian people that he would lead a government of no surprises. Well, this move was certainly a surprise to every aged-care provider and dementia carer in Australia. It is a move for which there is no excuses.

What is not surprising, however, is the industry’s response. The Chief Executive Officer of Western Australia’s aged-care provider Baptistcare, the Reverend Dr Lucy Morris, has called these cuts ‘a noose that will choke the industry’. I have met with senior industry figures and I can assure senators that they are not partisan players, but they do understand the impact of these cuts on real people. In May, Dr Morris told the Aged Care Guide:
Everyone with a family member with dementia in a residential aged care facility will lose their additional much needed support. Support that has been developed specific to individual needs, support that has been designed after significant testing and assessment on a case by case basis.

Professor John Kelly, the Chief Executive of Aged and Community Services Australia, has said that the withdrawal of this funding, ignored the problems faced by staff and patients. He said:
This action by the Assistant Minister, Senator Mitch Fifield, does not send a good message to the community.

If the government will not listen to the opposition, perhaps it will listen to aged-care providers.

The government may assert that it has a mandate to reform areas of the budget. The government might even be able to say with some cogency that the dementia and severe behaviours supplement was oversubscribed and needed some revision. But to slash it completely and to remove support from even the most extreme and needy cases is without justification or excuse. And to do it by stealth and without consultation with the aged-care sector or with any stakeholders is simply irresponsible.

Once it became apparent that the government had decided to impose this course of action, my office—following the leadership of Senator Polley—began a mail campaign to make the community aware of just what was being planned. Unsurprisingly, the response was overwhelming and it was not happy at all.

From just the first 20,000 households my office contacted, in the electorate in which I live, Stirling, over 1,700 replies came flooding back calling on the government to stop the cuts. Approximately 2,500 people took the time to fill in a petition and mail it back. There were thousands of views, likes and shares online and on Facebook. And all this from just part of just one electorate in my home state of Western Australia. People like 78-year-old Joe Richmond, of Stirling, who wrote to me to say:
… cutting funding that affects the lives of ordinary Australians, and the subsequent extra cost of these cuts that may cost the taxpayer more than they save in extra care, is utterly stupid.
People like Lara, of Balcatta, who wrote to me to say:
How disgusting of the government to do this.
People like June, of Innaloo, who asks:
I'm disgusted. How much more can the aged and the vulnerable be told to give?
People like Toriko, of Karrinyup, who wrote:
This government keeps picking on the most vulnerable. I will not vote for it at the next election.
People like Julie Munns, Bernice Grose, Lloyd Nicholls, David Blackledge and Barry McCarley, who wrote to tell me of their loved ones suffering from dementia—thousands of ordinary people, in just one electorate, who know what the real impact of cutting this payment will mean to our community; thousands of everyday working families who know that introducing these cuts, without any warning, was mean and tricky. I might even dare to say: they know it is un-Australian. If the government will not listen to the opposition and to aged-care professionals and stakeholders, perhaps they will listen to the community.

Were I not elected to this place, I might very well have joined with those thousands in registering my protest with a letter or a petition. My own mother, Beulah, began to exhibit the early effects of dementia during the last three years of her life and, while my wife, my in-laws and I did our best to care for her in our home, it was sad to see her deteriorate to the point where I became, in her words, 'the nice man who lives down the hall'.

Those with dementia, their families and their carers face daily struggles. Why this government has decided it is these people, who must suffer further in order to put the budget back into surplus is beyond my comprehension—I suspect it would be beyond the comprehension of most Australians.

At the start of this address, I referred to my maiden speech and my promise to speak on behalf of ordinary working people and to consider legislation from their point of view. There can be no doubt that in the view of ordinary working Australians cutting payments for the care of those with serious behaviours associated with dementia is wrong. Phantom budget emergency or no budget emergency; why should the heaviest lifting be done by the most vulnerable in our community?

Senator URQUHART (Tasmania—Deputy Opposition Whip in the Senate) (11:19): I rise to speak on the Aged Care and Other Legislation Amendment Bill 2014 and the Health and Other Services (Compensation) Care Charges Amendment Bill 2014. These bills create the provisions to recover prior costs for home care provided to people who received a compensation payment. As this is currently the situation for people in residential care, the changes merely bring home care arrangements into alignment. This is a common-sense provision that Labor will not stand in the way of.

Similarly, we support the amendments to the Healthcare Identifiers Act to allow for the collection, use and disclosure of relevant data to be used in the aged-care gateway, My Aged Care. My Aged Care is an online service designed to help families navigate the aged-care system. It provides up-to-date information and a central portal for all information on aged care.

My Aged Care was a key element of Labor's landmark Living Longer, Living Better aged-care package, which was brought before the last parliament. The Living Longer, Living Better legislation package laid the foundations for a more responsive, reliable and streamlined
system to give older Australians high-quality, accessible and affordable care. It set a framework to ensure Australians would get the aged care they want and need regardless of where they live or their financial means. It included consumer-directed care packages to give people more control over the care they receive and close to a billion dollars in new funding for home care to increase the number of home support packages. In addition, there was increased funding for residential aged care to support 30,000 new places over five years, tailored packages for people with dementia and funding for aged-care homes to significantly upgrade their facilities.

Living Longer, living better was welcomed by older Australians, aged-care service provider organisations, professional bodies and unions active in aged care. In fact, it was considered to be so vitally important that 22 organisations representing many of the largest aged-care providers, both not-for-profit and private as well as consumer body, COTA, the two key unions, Alzheimer's Australia and several other representative organisations, joined forces to pen a letter urging:

… in the strongest terms that the current legislation pass this Parliament, with or without amendments that may be proposed by the Committee.

And rightly so.

The ageing of our population is perhaps one of the most pressing issues that governments across the globe face today. A growing tendency to have fewer children, coupled with a significantly increased lifespan, will lead to massive changes in our national demographic make-up in the decades to come. The proportion of Australia’s population aged over 65 was 8 per cent in 1970-71. The 2010 intergenerational aged-care report projected that over the next 40 years that proportion of the population over 65 years will almost double to around 25 per cent. So we are getting older.

Tasmania is currently home to more than 80,000 people over the age of 65 and our population is ageing more rapidly than any other jurisdiction, making this legislation vital for our community. Along with other landmark legislation such as NDIS and the landmark Gonski education reforms, Living longer. Living better. stands as part of the proud legacy of the Labor government that was committed to constant improvement and considered, compassionate policy.

One of the key elements of Labor's aged-care reforms was the workforce supplement, which was designed to address looming workforce shortages in the aged-care sector. The supplement allowed providers to deliver better wages and attract and retain appropriately skilled staff. The aged-care workforce is one of the largest service industries in this country. It employs over 250,000 people, caters to the needs of over 1.1 million older Australians and accounts for about one per cent of GDP in terms of Commonwealth funding alone. But the unavoidable reality is that the aged-care workforce is at crisis point. If we do nothing, we simply will not have the staff we need to ensure that Australians receive the care they need in their senior years.

The aged-care workforce is ageing itself with the average age of an aged-care nurse sitting at 48.5 years as opposed to 44.5 years for other nurses. A full 53.9 per cent of aged-care nurses are over 50 compared to 38.6 per cent of nurses across other sectors. Aged-care providers simply are not able to offer the wages that are necessary to ensure they have enough
staff. In fact, the Australian Nursing & Midwifery Federation undertakes a quarterly sector comparison which looks at 785 agreements operating in the residential aged-care sector.

The latest comparison reported by the Aged Care Financing Authority, covering the period December 2013 to February 2014, found that for level 1 registered nurses there is a pay difference on average of almost $210 a week, or 17 per cent between those working in aged care and nurses in other areas. Worse, we know that the demand for carers will increase by 40 percent over the next five years. The simple truth is that if we do not act to increase the salaries, training opportunities and career development of aged-care workers, we will have a workforce crisis on our hands at a time when the demand from them keeps on growing.

This government has no plan to address the problems of the aged-care workforce. In fact, one of their first acts in the area of aged care was to try to bypass the parliament and try to axe the workforce supplement through regulation. Again today this short-sighted government is axing the supplement while putting forward no plans to solve the massive problems facing our aged-care workforce into the future. Nor are they doing anything to ensure the funds from the workforce supplement will be redirected toward the vital areas of workforce pay, conditions and development.

But this is not the only area of bad policy from this government when it comes to addressing health sector workforce issues. They have scrapped Health Workforce Australia, which was tasked with ensuring Australia has enough doctors, aged-care workers, nurses and allied health professionals to meet community needs into the future. They also axed the National Workforce Development Fund, which was supporting training and workforce development in the areas of current and future skills needs, and they have provided no solutions as to how the aged-care workforce will be made sustainable into the long-term. In its words, this government pretends to be the best friend of older Australians, but its actions tell a very different story.

This government has an appalling record for delivering to older Australians. They have axed the dementia and severe behaviours supplement with no warning, no consultation and no alternatives offered. This was a $16 supplement paid daily to approved residential aged-care providers caring for people with severe behavioural and psychological symptoms that all too often accompany dementia. Mr Abbott waited until after the May budget to axe the supplement, causing untold financial constraints for aged-care providers who had already prepared their budgets.

We also saw thousands of older Australians thrown into limbo as a result of the government's chaotic mismanagement of income and assets testing arrangements for aged care. This cruel incompetence forced older Australians to wait months before they could enter residential aged care, while Centrelink assessed their accommodation payments level resulting from the introduction of means testing on 1 July. However, it was clear the government did not make sure that Centrelink's systems and processes were able to adequately implement the changes, resulting in incorrect information and massive delays.

The May budget also slugged the aged-care sector with a number of other savage cuts. It slashed the aged-care payroll tax supplement. This supplement was paid to for-profit providers that often exist on wafer-thin profit margins. COTA, the peak body for older Australians, has pointed out that this will see aged-care providers pass on more than $650 million in higher accommodation charges to consumers over the next four years. The changes
to pension indexing arrangements, which we all know are just a cut by another name, will also hit the income streams of aged-care providers as the real value of the pension drops by year by year.

And, of course, the Abbott government's cruel and short-sighted GP tax will also hit older Australians disproportionately hard as they are the people most likely to have high healthcare needs. Suddenly, we are hearing that we can't possibly afford proper health, education and support for our citizens. Curiously, however, we still can manage to find billions for slush funds for big polluters and $50,000 cheques for millionaires to have babies. And, while there has been a lot of chest beating, there have been precious few, if any, practical measures to improve government balance sheets by ensuring multinational companies pay their fair share of tax.

Make no mistake: this is a government intent on taking from the young, the poor, the elderly and the vulnerable.

Senator FIFIELD (Victoria—Manager of Government Business in the Senate and Assistant Minister for Social Services) (11:29): Can I thank colleagues for their contributions in this debate on the Aged Care and Other Legislation Amendment Bill 2014 and the Health and Other Services (Compensation) Care Charges (Amendment) Bill 2014. As has been canvassed, the two bills that are before us seek to introduce several minor amendments to aged-care and health related legislation.

One measure makes consequential amendments to reflect the 2014 budget measure to repurpose the aged-care workforce supplement, and I just want to talk about this one very briefly. This is a change which has already happened. It was a 2014 budget measure that gave effect to an election commitment which was very clearly documented in the coalition's pre-election aged-care policy. The reason for the election commitment which was given effect to in the 2014 budget was fairly straightforward. The workforce supplement was essentially a mechanism to achieve an industrial objective. The view that the coalition took and has since implemented is that aged-care providers are in the best position to know and to understand how to run their businesses, which is why we said we would repurpose the money for the aged-care workforce supplement—$1.1 billion—into the general pool of aged-care funding. That is a decision that has already been taken and given effect to. What this piece of legislation seeks to do, among other things, is to remove the workforce supplement from the list of primary supplements that may be provided by the subsidy principles under the act. So that is essentially just a bit of housekeeping. This is not giving the effect to the election commitment. That has already happened. This is essentially a bit of legislative tidying up. I appreciate that those opposite tend to view most portfolio areas as another platform by which to give effect to their industrial agenda. I guess they are usually fairly straightforward about that. I have spoken to Senator Siewert, and we will agree to disagree on this particular point—this particular minor technical amendment—but I thought that the context was important.

A second measure in the bill will support the implementation of stage 2 of the Aged Care Gateway, which, for those colleagues who might not be familiar with it, is an online information portal and contact centre. These two bills will also make amendments to allow for the recovery of past home care costs where the care recipient receives a compensation payment, as is currently possible in relation to residential care costs. So this is essentially bringing that into line and is fairly similar to the sort of approach that is taken with the NDIS.
Lastly, there are some minor clarifying technical amendments to aged-care legislation to remove redundant provisions and ensure that the legislation operates as intended. I do not want to delay the chamber by diverting for a moment into an area which is not directly touched upon by this legislation, but I do so because the contributions of colleagues opposite did vary fairly widely from the legislation that is before us. Opposition senators spoke at length about the cessation of the dementia and severe behaviour supplement. I think, Mr Acting Deputy President Dastyari—knowing that you are someone who pays close attention to the budget and to the finances of the nation—that you will be interested to know that the dementia and severe behaviour supplement introduced by the previous government, which operated for one year, had a budget allocation of $11.7 million but ended up coming in at $110 million. That was because the previous government assumed that there would be 2,000 aged-care residents who would trigger eligibility for providers for the dementia and severe behaviour supplement; it ended up being 29,000 aged-care residents who triggered eligibility for providers, and over the forward estimates, rather than the $52 million allocated by the previous government, the supplement was going to cost $780 million. Over the following 10 years, operating within the budget envisaged by those opposite, the supplement was in fact going to cost $1.5 billion. I did look to see whether it was possible to recast the supplement, but I ended up reaching the conclusion that it was not possible to salvage the supplement in its current form. No government, given a situation where a badly designed program by a previous government was intended to cost $11.7 million in its first year of operation but actually cost $110 million, can stand by and let that situation continue. It is curious that, somehow, bad policy designed by the previous government for the dementia and severe behaviour supplement is actually the fault of this government. That is a perverse approach. Anyway, this government took the responsible approach, and that was to conclude the supplement.

Senator Polley interjecting—

Senator FIFIELD: Mr Acting Deputy President, I am hearing strange noises emanating from across the chamber.

The ACTING DEPUTY PRESIDENT (Senator Dastyari): Order! The Senate will come to order.

Senator FIFIELD: They are incoherent, but they are certainly strange noises.

Senator Polley interjecting—

The ACTING DEPUTY PRESIDENT: Order, Senator!

Senator FIFIELD: Thank you, Mr Acting Deputy President. Nevertheless, the government is firmly of the view that we need to look to see what can stand in the stead of the dementia and severe behaviour supplement to better provide support for the small number of people in residential aged-care settings who exhibit severe behaviours related to dementia. I convened a ministerial group to address this issue, under the auspices of KPMG. Advice has been provided to me, and we are currently consulting with the Aged Care Sector Committee to look for what might be a good and practical thing that government can do within the original funding envelope. I think that is the right approach.

I will not detain the chamber any longer, other than to note that yet again Senator Polley, who claims to have such passion in this area, read every single word. Such is her passion in
this area that she cannot utter a sentence about aged care unless she reads what has been written for her.

Senator Polley interjecting—

Senator FIFIELD: Senator Polley says 'play the person'. I think if you look at the Hansard you will see that that is all Senator Polley did in her entire contribution in this place.

Senator Moore: Mr Acting Deputy President, a point of order: I know that the minister has now sat down, but I want to raise a point of order in terms of the comments made by the minister about Senator Polley, reflecting on Senator Polley's performance as a shadow parliamentary secretary in this place, and to draw the attention of the chamber to the significant number of people in this place who consistently read issues into the record.

The ACTING DEPUTY PRESIDENT (Senator Dastyari): There is no point of order.

Senator FIFIELD: I merely make the point that if Senator Polley wishes to make contributions that are pointed and personal then she should not be averse to some commentary in return. That is the way the place operates. With those comments, I conclude my contribution.

The ACTING DEPUTY PRESIDENT: I will now read, word for word, what is in front of me: the question is that the second reading amendment moved by Senator Lines be agreed to.

Question negatived.

Senator SIEWERT (Western Australia—Australian Greens Whip) (11:40): I wish to record that the Greens do support that amendment.

The ACTING DEPUTY PRESIDENT: That has now been recorded. The question now is that the bills be read a second time.

Question agreed to.

Bills read a second time.

Third Reading

The ACTING DEPUTY PRESIDENT (Senator Dastyari) (11:40): As no amendments to the bills have been circulated, I shall call the minister to move the third reading unless any senator requires that the bills be considered in Committee of the Whole.

Senator FIFIELD (Victoria—Manager of Government Business in the Senate and Assistant Minister for Social Services) (11:40): I move:

That these bills be now read a third time.

Question agreed to.

Bills read a third time.

Business Services Wage Assessment Tool Payment Scheme Bill 2014

Business Services Wage Assessment Tool Payment Scheme (Consequential Amendments) Bill 2014

Second Reading

Debate resumed on the motion:

That these bills be now read a second time.
Senator MOORE (Queensland) (11:41): We have waited a while for these bills to come into the chamber. People may remember that these bills were actually referred to the Senate Community Affairs Committee several months ago now, for an absolutely urgent turnaround. Our committee had to have hearings on a very sensitive issue and prepare a report to come back to this place, and then the bills have sat. So, it is important to know that they have finally come in to the chamber for consideration.

This is a particularly complex area, and we understand that. The bills seek to establish a payment scheme for supported employees in Australian Disability Enterprises, or ADEs, who previously had their wages assessed under the Business Services Wage Assessment Tool, commonly known as BSWAT. We know that there are almost 200 ADEs across Australia, supporting more than 20,000 workers with disabilities. More than 90 per cent of these supported employees working in ADEs receive the disability support pension. We know that the disability support pension is also subject to budget processes and budget attacks in terms of the indexation ranges. So, the people who were caught up in the changes in relation to these particular issues are already concerned about a range of things to do with their livelihood, with their futures and with what will happen to them, and this fear is shared by their families.

Also, I truly believe, in the case of many people who run supported employment workplaces at the moment, that there is a great deal of care to ensure that employees working in these areas are well supported and that their rights are protected. I feel that that needs to be put on record, because within the discussion around the Community Affairs hearing there seemed to be some tension in terms of whether there was any sense of agreement about what would be the best form of employment and supported wage in this area. I think it is important to acknowledge that there must be support for the employees. Employees of the ADEs are paid at a pro rata wage determined by using a wage tool such as the one that we have here, the BSWAT. This particular tool was developed in 2003 and was designed to measure an employee's productivity and competence in performing a job. It has been used to determine the wages of about half of all workers in ADEs. We believe that that was around 10,000 people. It was developed in 2003 and has been used by successive coalition and Labor governments. So, this particular issue is owned by both sides of the chamber. This is not allocated to one side or the other.

In 2011 two employees very bravely challenged the BSWAT in the Federal Court of Australia. They were not seeking compensation for wages lost. They sought a declaration from the court—a declaration that they received. Both the Federal Court and the High Court determined that the tool, the BSWAT, indirectly discriminated against people with intellectual disability. This means that these Australian workers, some of the most vulnerable in our community, have been paid less than they should have been. We know that senators across this chamber understand that that is not just.

In April 2014, the Australian Human Rights Commission granted the Commonwealth a 12-month exemption for people who had had their wages assessed using this tool, while a new wage assessment tool is developed. Labor understands that the Australian Human Rights Commission did not take this decision lightly. The commission considered a number of issues in making its decision for an exemption, issues such as whether an exemption would progress the objects of the Disability Discrimination Act, the core legislation, objectives such as the
elimination of discrimination against people with disabilities including in the area of employment, and to ensure that people with disability get equal treatment before the law, to ensure that people with disability have the same fundamental rights as the rest of the community. This argument came up consistently in the hearings we had on this piece of legislation.

Labor understands why the government has decided to establish the payment scheme through this bill today. However, when talking to disability stakeholders about the detail of the bill, Labor was very disappointed to learn that the government had not consulted with key stakeholders on these details of the bill. People with Disability Australia made this point in their submission to our inquiry:

People with Disability Australia has not been consulted by the Commonwealth on any element of the Bill, on any plans to transition away from the BSWAT as required by the Australian Human Rights Commission.

That is why Labor insisted on a Senate inquiry into the bill, so that the stakeholders had the opportunity to have their say on this complex issue. I want to be clear that Labor does support the government making a payment to people with intellectual disability who have had their wages assessed using the BSWAT. We support the concept of this payment as an interim measure while the government puts in place an appropriate non-discriminatory mechanism to ensure people receive fair pay. This additional funding will provide much-needed support while this matter is resolved. However, Labor cannot support the bill in its current form. The bill effectively extinguishes a person's legal rights and we do not think that is fair. The bill stipulates that a person ceases to be group member of any relevant representative proceeding at the time the acceptance of payment under the scheme is lodged. So it is an either/or and it is imposed on people who have great need for support in making decisions and who are ready, as we have said, some of the most disadvantaged in our community. Labor cannot support these provisions and we will be moving amendments to protect people's legal rights.

Labor also has concerns about the nominee provisions in the bill. These came directly from the evidence received in our committee. Labor will also be moving amendments so that the nominee rules better reflect the rules under the NDIS Act and are underpinned by the UN Convention on the Rights of Persons with Disability. I want to be clear that Labor’s vision on this bill and the amendments we will move will not and must not jeopardise jobs. Of course Labor wants to ensure people with disability are supported to find and to keep work. Labor is also determined to see workers with a disability receive fair pay for the work they do. Ultimately, Labor wants government to sit down with people who have disability, with their supporters, with employers in the area and with relevant parties who have shown real interest, to resolve as soon as possible this complex matter, which has been before us for a period of time. It is important that all relevant parties come together and for the government to put in place a fair, long-term solution which is in the best interests of the workers with disabilities, employers and our community as a whole.

As I said, this bill stipulates that a person ceases to be a group member of any relevant representative proceeding if they accept payment under this scheme. In giving evidence to the current Senate inquiry into this bill, People with Disability Australia argued that:
... the Bill will exploit the vulnerable circumstances of people with intellectual disability who work in ADEs, by providing a payment in exchange for their consent to maintain a system of wage determination which has been proven to discriminate against them.

Labor wants the bill amended to protect people's legal rights. Amendments do so in a way that ensures people cannot receive money under the government scheme and any money awarded by the courts at a future date. Our amendments give the Commonwealth the power to recover moneys paid under the scheme should an individual be rewarded a payment by the courts. This is effectively how the compensation rules operate under the Social Security Act. It is also akin to compensation arrangements set out in the NDIS Act.

I have also mentioned that Labor has some concerns with the nominee provisions of the bill—again, points made very clearly at our committee hearing. We want to see the principle of supported decision making at the very centre of this bill. We are concerned by any rules that do not ensure nominee provisions are used as a last resort. This was at the forefront of Labor's mind when we designed the nominee rules for the NDIS. These rules were designed with great consultation across the community, with people with disability, with legal firms and with a range of people who work in the field. We believe that the provisions under the NDIS Act are the model for where we should be working at the moment. Particularly when we have concurrent legislation impacting on many of the same people, there should be some kind of consistency.

The nominee rules under the NDIS Act are underpinned by those principles of supported decision making. These principles are reflected in the UN Convention on the Rights of Persons with Disability. That is why we will be moving amendments to ensure that the language around the nominee provisions in this bill reflect those in the NDIS Act. I think there is general acceptance that we as a community and as a parliament must do more to support people with disability into employment. That is given name of so much of the work that has been done over the last years and also of numerous pieces of policies looking at the future.

When it comes to employment participation rates for people with disability, Australia ranks 21 out of 29 OECD countries. I am aware of the sensitivities and the worries about using OECD comparisons about making sure that they are a true reflection but I think in this case it is a reflector of exactly where we need to go to ensure that at this stage we are slow low with comparable countries in terms of real employment participation for people with disability, especially when you look at the correlation between disability and poverty. Again, these are points which came out consistently throughout the inquiry and also in the inquiry the Community Affairs Committee is currently doing looking at income inequality in Australia. These issues are to do with levels of disadvantage and stagnation within elements of disadvantage in the community. According to analysis by People with Disability Australia, an astonishing 45 per cent of people with disability live in or near poverty in our country. That is more than double the OECD average of 22 per cent. Australians know that all people with disability have the same right to a meaningful and productive life as those Australians who do not have disability. As we know, that is core to the principles of the development and the implementation of the NDIS. We need to ensure that people have opportunities, are treated with respect and feel valued in our community.
The National Disability Insurance Scheme was the most significant reform to disability services in the country’s history. It should unlock the economic potential of thousands of people with disability who have been tragically cut out of the community and, in terms of employment, have been closed out of the workplace for so long. We know—and we are getting regular updates as the NDIS is being implemented—that there are now more than 7,000 Australians currently receiving support under the NDIS. We also introduced the National Disability Strategy, introduced the vision, delivered historical increases to the disability support pension and doubled Australian government funding for disability care and support under the National Disability Agreement. All these issues were linked with that core element of ensuring respect and support for people with disabilities, and most particularly the ability for people to have their own decision capability.

We know now that the recent budget looked at rights and payments to people with disabilities and their carers. They were deeply involved in discussions we had in the Senate Community Affairs Legislation Committee. People with disability, their families and their carers put forward their concerns about the impact the Business Services Wage Assessment Tool Payment Scheme Bill and the Business Services Wage Assessment Tool Payment Scheme (Consequential Amendments) Bill would have on the people for whom they care and members of their family. The community affairs inquiry was able to get information from various groups involved in the development of employment for people with disabilities. Through this process—and it was a necessary process because the Human Rights Commission and the court said that the government had to go back to the drawing board—we believe we were able to identify more of the issues and to ensure that the concerns were identified. We also believe that the amendments we are bringing forward actually make the legislation more reflective of the concerns that people brought to us.

We are particularly concerned that the time frame for the consideration of a new tool is rapidly ticking over. The process was that there needs to be an action taken. The Human Rights Commission handed down its 12-month exemption in April this year. The government is already well down the way through the exemption period. We were not convinced at our hearing that there had been a great deal of work done—or at least that could be shared with our committee—on the development of a new tool. That is particularly worrying as we now move into the Christmas-New Year period when there is a lack of engagement in many parts of the area. The Human Rights Commission and the Federal Court have said there should be a new operational tool by April 2015. I am not confident that this tool will be in place. I am certain not confident that the people who came to us as a committee with their concerns about what was going on will be effectively engaged in the development of the new process. If they are not, we will be just reinforcing the faults of the previous system. We will not be listening to the people who have concerns; we will not be listening to what they think would be the best way of operating; we will not be treating them with respect. So the cycle will continue.

A tool was in place and it was challenged. The opportunity was there for the government to go back and work with groups to develop a new tool. If that is not done effectively, again we will have this division and this added concern. This will mean there is not that effective progress and that effective acknowledgement of the rights and opportunities for people with disabilities. I am disappointed, also, that Minister Fifield claimed that the Australian Human...
Rights Commission denied the Commonwealth's application for an exemption. That is just not true. The commission granted the Commonwealth a 12-month rather than a three-year exemption—

**Senator Fifield:** Denied our application, which was for three years.

**Senator MOORE:** There was an exemption; it was just not for the three years that the government asked for. We do support and we deeply acknowledge the announcement by Senator Fifield on 21 August of $173 million to support ADEs in the transition and the development of a new wages tool. That is the work that needs to be done. That is what the people in this area want and that is the only way that we will be able to move forward. So we welcome the announcement from the government of that allocation.

We, as I said, will be opposing the legislation in its current form. We will be moving amendments to leave intact people's rights to pursue legal redress whilst ensuring people cannot receive money from the government's payment scheme as well as any money awarded by the courts. We hope that the government and the crossbench will support Labor's amendments to the bill. In doing so, we urge the government to go ahead with the payment scheme but not by forcing people to forgo their legal rights. There is nothing stopping the government from sitting down with people with disability, employers and relevant parties. There are a number who are engaged, are knowledgeable and want to make sure that we come up with something that works. We believe that is in the best interests of workers with disabilities, their employers, their families and the community.

The government must get on with the very important job of putting in place a fair wage assessment process. The government must ensure wage-setting arrangements are non-discriminatory and fair for all people with disability. We know that the best way of doing that is by working very closely with the disability sector and also with the discrimination commission. If the discrimination commission actually identified that the previous scheme was discriminatory, it would seem fair to think that when developing a new tool we would work to see whether we could come up with a tool that is not discriminatory.

I want to put on record my appreciation of the people who came, again at extraordinary short notice, to talk with our committee about their concerns and also to look at putting in place something that will work into the future. Again, the thing that is most positive about this experience—as is most often the case in this area—is the general commitment of people to ensure that we do get a system that works, is non-discriminatory and will give people with disabilities options for employment.

**The ACTING DEPUTY PRESIDENT (Senator Dastyari):** I wish to acknowledge in the advisers gallery the presence of Miles Maguire, a school student from Sydney who is using part of his school holidays to work with Senator Fierravanti-Wells to find out more about how the Senate operates. I hope after your week in the Senate you are more not less engaged.

**Senator SIEWERT** (Western Australia—Australian Greens Whip) (11:59): I rise to make a contribution to the debate on the Business Services Wage Assessment Tool Payment Scheme Bill 2014 and the Business Services Wage Assessment Tool Payment Scheme (Consequential Amendment) Bill 2014. The Greens are deeply concerned about these bills and oppose them not because we do not think this is an important issue; we do not think the
measures contained in the legislation are fair to those in the workforce who have a disability, particularly those who have an intellectual disability and who have been underpaid for a consistent period of time. This issue has been on the agenda for a long period of time. I acknowledge that this is a problem that the current government inherited and under the previous government and previous to that, under the previous coalition government, this is an issue that has been raised for quite a long period of time. Because it was not adequately addressed by previous governments, we have seen the court cases that have been referred to in this place.

People with a disability are seriously underrepresented in the workforce in Australia and those with an intellectual disability especially so. With only 6.9 per cent of working age people with an intellectual disability reporting work in the open labour market, it is clear that workers with an intellectual disability face, as Inclusion Australia have said:

… large gaps of support to help them move into open employment, earn a real wage and reduce their reliance on the pension.

Structural change is required. We need better strategies and legislation to encourage and support a greater participation by people with disabilities in the workforce. We know that this has been a significant issue for a period of time. In fact, we know participation even in the Public Service for people with disability has decreased.

We need increased participation by people with disability in our workforce. However, discrimination against workers is completely unacceptable and this increased participation should not be through reduced wages. The Australian Greens are committed to equal pay for equal work and are very concerned with the distressingly low payments made to people with an intellectual disability who have been assessed under the Business Services Wage Assessment Tool, BSWAT, and do believe this issue needs to be addressed. BSWAT has been found by the High Court to be discriminatory towards workers with an intellectual disability. The Human Rights Commission also finds that BSWAT is an unacceptable tool and concerns have been raised by a variety of peak disability and legal bodies, including Inclusion, People with Disabilities and AED legal centres.

This bill does not adequately address the continued discrimination of workers under BSWAT and we have some key concerns regarding this bill which we did articulate in our dissenting report on this legislation. We are concerned that a payment rather than a compensation is being offered. We are concerned that people have to waive their legal rights to access the payment. We are concerned about the conflict of interest that arises around the power to appoint nominees. The Australian Greens are also concerned with the fact that the bill does not extend to workers with a disability who do not have an intellectual disability. We support the concerns expressed by PWD at the hearings into this legislation, where they said:

Only people with intellectual disability will be eligible for the payment scheme. A person with psychosocial disability, for example, may work in the same ADE, do the same job and earn the same wage as a person with an intellectual disability but they have been excluded from the payment scheme. The Commonwealth's failure to recognise the violation of rights that people without intellectual disability have experienced will continue.

In terms of accessing payment, approximately half of Australian disability enterprises, ADEs, use BSWAT which means there are currently around 10,000 people who have been assessed using the BSWAT model. This bill offers a potential payment of up to 50 per cent of what is
already owed on completed work in exchange for workers losing their right to seek a fair pay settlement—in other words, for 50 per cent of what workers are entitled to they will be asked to sign away their legal rights. Only pay 50 per cent of what they are entitled to is unacceptable. There should be full compensation for unpaid wages. In addition, the lost opportunity of what people could have purchased with their rightful wage is not addressed.

This is a similar situation to an issue that I have spoken on in this chamber previously—that is, the stolen wages of Aboriginal and Torres Strait Islander peoples. One of the issues that came up during that Senate inquiry quite a long time ago was what they could have achieved if they had actually had access to the wages that were stolen from them in the first place? The same concept applies here. What would people with intellectual disability have been able to achieve and bought with the money that they would have earned if a fairer tool had been used and they had not been discriminated against by the BSWAT tool? They may have been able to get better accommodation. They may have been able to get extra training and support. They may have been able to get better accommodation. Opportunities were lost because people were not paid adequately.

The Australian Greens are very concerned about the tight time line that people have to decide if they wish to pursue the payment, which will mean that people will not be able to adequately weigh up all their options to make a decision in their best interest. We are also concerned that there are inadequate provisions being made to ensure that all those affected are aware of their choices and the consequences of decisions. This legislation could lead to unfair outcomes for underpaid workers. There are also inconsistencies between payments, for instance:

A person who is found eligible and is made an offer of payment this year will receive less than if they apply to the payment scheme next year as they would have been working under the BSWAT for longer. This will create unequal outcomes and is unfair.

That was a point that was raised by People with Disability during the inquiry.

There have been discussions around the appointment of a nominee, and we are still not satisfied with the provisions in the bill. The provisions allow the Secretary of the Department of Social Services to appoint nominees on behalf of unpaid workers without their consent. We believe this is very concerning. As the AED Legal Centre said during the inquiry into the bill:

There is no restriction on who can be appointed and no exclusion of individuals or parties with a conflict of interest.

They went on to say:

The third point—and, in my eyes, the most important—is the right given to the secretary to appoint a nominee to effectively stand in the shoes of the supported employees. This is not only a conflict of interest but removes from these employees their very basic human and constitutional rights. There is a very real danger here that the nominee appointed would or could have a larger picture goal in sight rather than that of the employee.

The concern here is the issue around supported decision making, which is vitally important to respecting the rights of people with disability. In the NDIS there are provisions for supported decision making, and there has been significant progress in supporting people with intellectual disability to make decisions. We think this bill does not adequately consider that progress or the provisions to adequately support someone with an intellectual disability to make a decision. Ms Sands from People with Disability made this point during the inquiry:
So really the whole provisions in this act around appointing nominees are completely in opposition to respect for supported decision making and respect for a person's right to legal capacity.

Then the AED Legal Centre, who have done a tremendous amount of work on this issue—and I want to take this opportunity to congratulate them on the work that they have done in supporting people with intellectual disability through this process and in raising this issue—went on to say:

There is a conflict of interest, first, in having the secretary being able to appoint a nominee. As to the nominee themselves, the role of that nominee raises the concern that it could be, potentially, a conflict of interest.

This bill does not adequately safeguard and ensure people's legal rights are protected. It does not adequately provide for a person's supported decision making.

We are also concerned about the argument that has been brought up about the viability of ADEs. I acknowledge financial support for ADEs to transition. However, I am still hearing the argument about the viability of ADEs. Quite frankly, it is a fallacious argument. I am not here commenting on the work that ADEs do, but it is not appropriate for them to argue about their viability by arguing that people with intellectual disability should have lower wages to ensure the viability of ADEs. That argument does not wash. Those sorts of arguments have been used in the past to deny and to excuse poor wages for others. It is not acceptable that they use that argument. ADEs are an important part of work opportunities for people with disability, in particular as an initial workplace so that hopefully they can transition to more open employment. They offer support and employment that are very much in demand. During the inquiry, the viability of ADEs to survive if they had to pay the non-discriminatory wage was brought up on several occasions. As I said, while I can understand the concern of ADEs, this is not a valid argument. It is just not acceptable to argue that they should not be paying fair, non-discriminatory wages for the work that people with intellectual disability carry out.

The Greens agree with People with Disability Australia that:

… maintaining the financial viability of ADEs is not a consideration that should trump the right of a worker to receive equal pay for work of equal value.

I could not agree more. It is simply inappropriate to mount that argument.

The BSWAT tool has been found to discriminate against workers with an intellectual disability. This legislation does not adequately address the issues that are raised by that issue. We will not support this legislation. This bill does not adequately address the discrimination against workers with intellectual disability. It does not adequately address the issue of compensation. It does not adequately address the lost opportunity of the thousands of workers who have been underpaid using this tool. Governments have known about this for a significant period of time and refused to take action, evidenced by repeated questions in estimates about this tool and evidenced by the campaign run by a number of organisations and people with intellectual disability to get this issue corrected. It has been on governments' agenda for a significant period of time.

Even while the governments—and I say 'governments' because it was the previous government as well—have been prevaricating around addressing this issue and have been in denial about this issue, people with intellectual disability have continued to work under BSWAT and have continued to be discriminated against and suffer lower wages because of the use of this tool, when it was well recognised by everybody else but government and
maybe a few ADEs that it was discriminatory against people with an intellectual disability. They continued to be in denial. They continued to encourage its use. And what happened is that people ended up having to go to court to deal with this issue. People with intellectual disability really should not have had to end up in court to get it recognised that this tool was unfair, and they had to continue to work under it. This bill does not adequately address those issues. It does not adequately compensate people and it has some significant flaws, as I have identified here and as Senator Moore has identified.

We will not be supporting this bill, and I also have to say here that we do not think we can support the ALP amendments, because people with intellectual disability and their representatives have indicated that they do not think this bill is flexible. I will repeat here that we have been consistently told by People with Disability Australia and others that this bill is inadequate. These are the people representing people with intellectual disability and they are saying to us that this bill is not adequate. We cannot support a bill where the peak organisation representing people with disability are saying, 'Please do not support this bill,' where the legal advisers are saying, 'Please do not support this bill.' We cannot support a bill that does not adequately address the issues that have been raised by the continued use of BSWAT. As I said, this issue has been on the agenda for a significant period of time. Not for one second do the Greens believe that this issue should not be addressed—it should be—but it should be addressed properly.

Australia has in fact a bad record of addressing the issues of stolen wages, of unpaid wages—making sure that people are compensated for the losses they have suffered. Please do not make this issue for people with intellectual disability another one of those issues. This bill does not address the issues and unfortunately we cannot support it, no matter how much we think that this situation is unfair. We need to actually do the job properly. This bill does not do it.

Senator SESELJA (Australian Capital Territory) (12:16): I will start with a response to Senator Siewert. This is not really at the heart of the issue of debating today, because we are talking about a particular scheme, but she seemed to be suggesting that the evidence that we heard—and we did hear evidence in committee that was quite compelling in terms of the viability of ADEs—is somehow not relevant. I think to the broader debate it is absolutely relevant, because if we do not get this right, we simply will not have the opportunities for people with disabilities in these kinds of workplaces. That simply cannot be put aside.

In fact, the evidence that we heard from the likes of David Barbagallo from Endeavour Foundation, who I think he said in evidence is the largest employer of supported employees in Australia, with over 2,100 employees across three states. He and others in that sector have raised serious questions about viability if we do not get this right. So we cannot just put that to one side; we cannot simply just ignore that, because the consequences of that would be that these kinds of opportunities may no longer be there in the future. I do not want to see a situation where that is the case. That is not the fundamental focus of today's debate. What we are talking about is this particular measure in this bill and I will go to that.

The bill seeks to implement a payment scheme for supported employees with intellectual disability whose wages were assessed within a defined period using the BSWAT. Of course,
following the recent Federal Court case it was established that the Business Services Wage Assessment Tool used to assess wages had shortcomings that amounted to indirect discrimination. The coalition recognises that there is a need for a system which reflects the concrete and relevant measure of productivity rather than the notion of competency. The BSWAT system will be changed to reflect this need. However—and that is what we are talking about today—the government's immediate priority is to ensure minimal disruption to the employment of supported employees.

The principal rights engaged by this bill are the right to an effective remedy; the right to just and favourable conditions of work; and the right to equality and non-discrimination, including the right of persons with disabilities to be recognized as persons before the law and to the equal enjoyment of legal capacity. The fairness and relevancy of the wage assessment tool will be the focus of the government's future legislation in this area, rather than a focus on levels of wages in abstract terms.

This government is committed to giving all Australians a fair go, a value that is central to the philosophy of this bill. There are around 20,000 workers with disabilities supported by Disability Enterprises in Australia. This bill is an interim measure to see those workers paid fairly and to give them a fair go. This government is serious about its commitment to intellectually disabled Australians and to their ability to make a genuine contribution to society through programs provided by Australian Disability Enterprises. This bill grows out of this serious commitment.

The coalition recognises the importance of supporting intellectually disabled people in their employment. The work that these people do gives them a sense of purpose and a set role within our community. By allowing them to participate in society they are given more control of their lives and a greater capacity to contribute. Their employment directly benefits members of society who are provided with services and goods. Their work helps to drive Australia's economy. Employing people with disability can also build staff morale in the workplace, and increase customer and staff loyalty.

This bill not only benefits workers that were assessed under the BSWAT but the scheme resolves the issue of retrospective liability for underpaid wages. Dr Ken Baker, Chief Executive of National Disability Services, has made it clear:

The calculation of the payment amount will not result in applicants receiving half the amount due to them.

The payment scheme formula says, 'Let's take the rate component'—of the BSWAT—'but let's discount that result somewhat to reflect the limited range of competencies.' An officer for the Department of Social Services has confirmed the payment amount is not related to the issue of productivity but to what the person would have received had the competency component of the BSWAT not been used to assess their wages.

On the legal consequences of accepting a payment, the bill provides choice to eligible applicants. It is the applicant's choice whether he or she receives a payment from the payment scheme. If the applicant accepts an offer, he or she will cease to be a group member of the representative proceedings and will be unable to make any further claims in relation to the assessment of wages under the tool. It is here that the comments of former Disability Discrimination Commissioner, Graeme Innes, are quite relevant and pertinent to this debate, particularly given what we have heard from others. Graeme Innes says this:
... it doesn't take the decision away from people with disability.

They can decide to pursue the matter in court, or they can apply to be eligible for the scheme ... If the scheme is acceptable to the people involved, then it seems to me a much better process to have the money paid to people with disability than paid to lawyers.

I think that that seems a very reasonable point in relation to these bills by former Disability Discrimination Commissioner Graeme Innes—that there is choice; no-one is forced to be part of this scheme. They can be part of an action or they can accept payment under this scheme, and that choice is theirs.

The coalition supports measures to ensure that the person with an intellectual disability is provided with adequate information and advice to make an informed decision. This is made possible through access to legal advice via legal aid and to financial counselling through Commonwealth Financial Counselling, which is funded by the scheme. The department have indicated that they will develop an online catalogue of legal firms which have expressed a willingness to provide advice in relation to offers under the payment scheme. This catalogue will include capacity for a firm to provide a brief outline of their experience, including their experience working with people with intellectual disability. An applicant may also choose to have a nominee, advocate and/or a support person at any stage of the process. To ensure people with disability have the opportunity to provide further information or to raise any concerns, the scheme will also have both internal and external review processes.

Dr Baker said:

... there will be a group for whom it is appropriate to appoint a nominee. There are other protections in the act which I think are there in terms of seeking independent financial advice, independent legal advice, capacity for an internal and external review. All of those add up to what seems to me to be a reasonable range of protections.

The bill attempts, as far as possible, to achieve supported decision making rather than substituted decision making. The provisions in the bill and proposed rules relating to appointments and duties of nominees under the BSWAT payment scheme closely reflect the provisions about appointment and duties of nominees under the NDIS legislation. The rules for appointments will include provisions that identify persons who must not be appointed as nominees. These exclusions include departmental employees and ADEs. Further rules are also being drafted to ensure the preferences of the participant are given appropriate weight. Clause 46 of the bill sets out the duties of a nominee to a participant and the circumstances in which a nominee will be deemed not to have breached those duties.

I think that this bill provides exactly the right kind of balance in dealing with this issue whilst a permanent response to the Federal Court's decision is made. As has been noted by the former disability discrimination commissioner, it gives choice. As has been noted by the likes of Dr Baker, it gives adequate safeguards and adequate protections. That to me seems a very reasonable way forward as we seek to finalise policies and processes which will ensure that we do see a future for ADEs. I do want to see the future viability of ADEs—I think that they have made a great contribution. I think that they have given employment opportunities where those employment opportunities may have never existed. We do have to, going beyond this bill, ensure the viability of those ADEs through good and sound policy.
I commend these bills to the Senate. I think they are an important contribution. I think they provide absolutely the right balance. I look forward to being part of the debate as we settle the other issues that have been raised as part of this discussion.

Senator URQUHART (Tasmania—Deputy Opposition Whip in the Senate) (12:26): In recent years Australia has come a long way toward providing dignity, respect and individual support for people with a disability. We have come a long way in moving the national conversation from the frame of charity to talking about empowerment and the legitimate contribution that people with a disability can make to local communities and to the nation as a whole. I am proud to have been part of the previous Labor government which guided the NDIS from being a dream to a fully-funded reality. Labor also introduced the National Disability Strategy, introduced 'the vision'—the inclusive employment framework for 2012 to 2022—and delivered historic increases to the disability support pension. Clearly we have come a long way. But, sadly, with Business Services Wage Assessment Tool Payment Scheme Bill 2014 and the related bill, the government is taking us backwards—and that is why Labor have proposed the amendments that we have—and in doing so it is not only taking advantage of the some of the most vulnerable in our community but violating their legal and human rights in the process.

Since 2003 a large number of people with a disability who have been employed by Australian disability enterprises have had their salaries determined by the business services wage assessment tool, or BSWAT. BSWAT comprises two tests. The first component is the productivity test, which benchmarks wages based on how long it takes the employee to do their work based on the average worker. The second component is the competency test, which puts the employee through a series of abstract questions about general knowledge that are not directly related to their work. If they get a single question wrong in any category, they receive a score of zero for the entire category. If they have difficulties in understanding or responding to verbal questions, they are very likely to fail the competency test and could end up with a salary as low as 33c an hour. Last year the validity of this mechanism was put to the Federal Court through the case of the Nojin v Commonwealth of Australia. The court agreed with the plaintiffs that BSWAT was discriminatory, with Justice Buchanan saying that criticisms of the scheme were 'compelling'. On the matter he said:

I can see no answer to the proposition that an assessment which commences with an entry level wage, set at the absolute minimum, and then discounts that wage further by reference to the competency aspects built into BSWAT, is theoretical and artificial. In practice, on the evidence, those elements of BSWAT have the effect of discounting even more severely, than would otherwise be the case, the remuneration of intellectually disabled workers to whom the tool is applied.

This means that these Australian workers, who are amongst the most vulnerable in our community, have been paid less than they should have been.

The legislation before us today is the government's response to the court's finding, and it is very disappointing. Instead of offering compensation through a fair process, this government is putting on the table what amounts to a pay-off in return for extinguishing employees' legal rights. The offer for affected workers is that they will receive half of the money they are entitled to, and in return they must agree to forego their right to pursue compensation through the courts for any further compensation. Quite simply, this bill proposes thoroughly shabby
treatment of those who already have enough challenges to face in their lives. Labor has serious concerns about it, and that is why we are proposing amendments to this bill.

But it is not just Labor that has concerns. When the Senate Community Affairs Legislation Committee held an inquiry into this bill, the vast majority of participants were scathing in their response. Disability groups, carers, legal representatives and people with a disability were almost unanimous in their contention that the bill represents an unfair attack on the most vulnerable people in our community. Mr Neville Ramaker describes his hurt at the actions of this government very poignantly in his submission, and I quote:

As a person with a disability, I am incredibly ashamed to be an Australian citizen.

The Federal Government and this appalling Bill, is another reminder that through the eyes of the politicians and the Government, I am nothing more than a hindrance that deserves to be further discriminated against for being born with impairments.

I find it very hard to fathom, how the politicians behind this bill sleep at night.

If this is not a clear message that the Federal Government places a higher value in its citizens that are fortunate enough to be brought into this world without any impairments! The highest courts in our land have made determinations that my fellow citizens with impairments are being discriminated against, but the Government refuses to accept those rulings, because it has an unlimited amount of tax payers dollars to spend on passing bills and legislation that send that clear message that 'People with disabilities are second rate citizens without any rights.'

It is very wrong that people like Mr Ramaker should feel this way about their own country and their place within it, but it is not surprising in light of the way this government has been behaving.

When introducing the bill in the other place, Minister Andrews said the bill was 'about providing certainty and reassurance to employees, their families and carers'. Unfortunately, the only thing that is certain here is that intellectually disabled people are getting a raw deal. If the government wanted to reassure workers, it would not be disregarding their basic right to legal recourse. In fact, when the bill was assessed by the Joint Parliamentary Committee on Human Rights it contended that, 'The scheme does not contain the requisite elements of an effective remedy to the unlawful discrimination found to have taken place.'

The right to effective remedy is enshrined under the International Covenant on Civil and Political Rights, which Australia ratified in 1980, and it is the responsibility of this government to ensure that it is adhered to. Josh Bernstein from Maurice Blackburn reiterated this injustice when he recently described the scheme as, 'a blatant attempt to coerce some of our most vulnerable workers into signing away their legal rights, for a sum of money that is just half what they should be paid'.

The second concerning aspect of the bill is the provision which allows the departmental secretary to appoint nominees to act on behalf of individuals without their consent. This removes the authority of the applicant to make decisions relating to their own situation and denies them the ability to appoint someone of their choice as they nominate. When this bill was referred to the Parliamentary Committee on Human Rights, this particular provision was found to be problematic. The committee asserted that there must be provisions to ensure that the autonomy, will and preferences of the individual are respected. It also said the bill should support, rather than substitute, the decision making of represented persons. Again and again, this government seems intent on attacking the most vulnerable in the community—those who
are least able to argue their case in the public arena and those who are least equipped to fight back.

The truth is that this is not a small-scale, isolated situation. National Disability Services estimates that up to 12,000 current and former employees may have been underpaid as a result of the BSWAT competence test. But, so far, the Abbott government has done nothing to rectify the discrimination which is inherent in this test. The Human Rights Commission granted a year's extension to the current scheme in April in order to allow this to happen. And here we are in November and, as far as I am aware, the government has provided no further information or progress reports. The government needs to sit down immediately with disabled people, with employers, with carers and with unions to come up with a solution that removes discrimination and ends the limbo for intellectually disabled workers. It needs to ensure that all disabled people have the right to access a fair day's pay for a fair day's work as a matter of urgency.

Labor understands the importance of Australian Disability Enterprises and the great job they do in providing jobs and support for people with a disability. In principle, we support the government's plan to make a payment as an interim measure while it puts in place an appropriate non-discriminatory means of determining wages that ensures fair pay; however, this should never conflict with basic human rights. Workers' legal rights should be protected. Workers should be entitled to government compensation, but should not be prevented from pursuing further compensation in court; however, we also recommend a provision to ensure there is no double dipping from court-awarded compensation and the government compensation to garner more than what is actually owed. These are sensible changes that would restore dignity and fairness.

Labor would also aim to rectify serious concerns with the nominees' rules that I mentioned earlier to ensure that they are used to support, rather than substitute, the decision making of a represented person. To achieve this, Labor believes that the BSWAT rules should more closely reflect the nomination provisions in the NDIS Act 2013. These rules are underpinned by principles of supported decision making and by the UN Convention of the Rights of Persons with Disabilities. I urge all senators to support Labor's amendments to create a fairer approach that respects the basic rights of these individuals.

Senator REYNOLDS (Western Australia) (12:36): I rise today in support of the Business Services Wage Assessment Tool Payment Scheme Bill 2014 and the Business Services Wage Assessment Tool Payment Scheme (Consequential Amendments) Bill 2014. These bills represent a necessary interim measure designed to reassure supported employees, their families and their carers by removing perceived liability which could impact on the ability of the ADEs to continue to deliver employment opportunities to thousands of Australians following a recent Federal Court case. Australian disability enterprises are not-for-profit organisations that employ people with disability who require supported work environments and are funded in part by the Commonwealth.

Supported employees are paid a wage using revenue derived from the business activity of these enterprises. Over 20,000 supported workers are employed by 193 disability enterprises across Australia with disabilities ranging from moderate to severe. These enterprises represent an opportunity for individuals with disability to engage in the workforce and to participate in meaningful activities with meaningful outcomes while earning a wage that otherwise they
would not be able to. Supported employees earn a pro rata wage calculated using a wage tool with the business services wage assessment tool being one of these. This tool was developed by government in consultation with disability sector stakeholders and was first used in 2004. The tool provides a measure of an employee's productivity and competence in performing a job and is used to determine the wages of about half of all workers employed by Australian disability enterprises.

Before I discuss the substance of the bills, I want to go back and have a look at the original intent of this scheme. It is important to remember that the scheme was developed in consultation with the disability sector in order to allow for physically and intellectually disabled people, who otherwise may not be able to gain suitable employment, to do so. In the words of disability advocate Mary Walsh, for many with disabilities and their families their 'work and social lives revolve around their participation in their local jobs and local communities'. Work under the BSWAT has allowed an estimated 20,000 people with a disability to engage and participate in a meaningful way.

A recent Federal Court case found that two supported employees with intellectual disabilities had been discriminated against by the use of the BSWAT in assessing their wage in comparison to those who had physical disabilities. The discrimination that was found to have arisen through the use of the BSWAT was due to the lesser ability of intellectually disabled employees to respond to abstract questions posed to them, even if those answers were not reflective of the manner in which those employees were completing assigned work or interacting with their coworkers. While these proceedings may take some time to resolve, this bill is a proactive measure that establishes a payment scheme that will give reassurance to supported employees, their families and their carers by removing perceived liability that could impact on the ability of all Australian disability enterprises to deliver ongoing employment support.

It is also important to remember that this is a temporary measure, designed to respond to the findings of discrimination while a longer term solution is devised—one that will produce a fair outcome for disabled Australians. The longer term solution will involve the development of a productivity based assessment tool that is relevant to the tasks that employees perform and the phasing out of the current BSWAT. This temporary measure will be implemented with minimal disruption to those employees under that scheme. I believe this is a good, sensible solution and is a fair way of assessing the work done by supported employees. Rather than subjective notions of competency, the value of work will be judged against what is produced or achieved by supported employees. This will be a much more equitable system. In conjunction with the rollout of the NDIS, it will ensure that Australians with disabilities continue to receive the support, assistance and, most importantly, the opportunities they need to thrive and to contribute as any other member of our society would.

This scheme will seek to establish a payment system for supported employees with intellectual disabilities in the ADEs who previously had their wages assessed under the BSWAT. The payment scheme established by the bill will allow eligible persons—those who have an intellectual impairment, have been employed by an Australian disability enterprise and have had their wage assessed under BSWAT—to apply for payments in relation to work they have performed in the past. The payment scheme will deliver payments to eligible workers as quickly as possible. People who consider they are eligible and would like to
participate in the scheme must register their interest by 1 May next year. People who wish to
test their eligibility and receive an offer must first make an application. Applications can be
submitted up until 30 November 2015.

The payment scheme fulfils the ongoing needs of intellectually disabled employees to
receive certainty about their employment and to remunerate them for work provided while
under the BSWAT system. It is important to note that during the acceptance period the
applicant must seek independent legal advice and financial counselling, and this will be
funded through the scheme. This will ensure that applicants have a clear understanding of
what they are accepting and will provide them an opportunity to raise any concerns with an
appropriately qualified person. This is a compromise solution. The strength of this scheme is
that it provides certainty of payments to individuals who may be deemed by the Federal Court
to have been discriminated against. It will provide access to funds, but in the process will
bypass the need for legal proceedings that will be complex, prolonged and, ultimately, have
an uncertain outcome for some of the most vulnerable in our community.

A new wage assessment process is to be created in the longer term to be used by ADEs. In
support of this, the government has announced that it will provide $173 million to help the
supported employee sector work towards new wage arrangements for supported employees
working in Australian disability enterprises. This funding will be used in part to support the
development and to implement a new productivity based wages tool for use across the
supported employment sector. This bill will ensure that employees can continue to contribute
to their communities and to work productively for a wage in addition to receiving disability
support pensions. It is also important to consider the package of services that supported
employees receive at their workplaces in addition to their wage, such as on-site counselling
and care.

The benefits received by supported employees cannot simply be reduced to the wages that
are paid to them in isolation of that factor only. I heard firsthand in the Community Affairs
hearings into this bill that: if the wages for these employees paid by Australian Disability
Enterprises were significantly increased and it was not done so in a planned manner and in
accordance with a reasonable scheme, it would be unsustainable.

I heard evidence from the Endeavour Foundation, an Australian Disability Enterprise that
employs 2,100 supported employees across three states. It is one of the largest employers of
supported employees in Australia. They exist for no other reason than to support people with
disability to have the same choices of an ordinary life that the rest of us in the community
enjoy. They are generally supportive of this scheme.

This scheme will allow them to continue to operate and provide services for their
employees; however, if they are forced to move to other assessment models, many of their
supported employment sites would no longer be sustainable and would have to close. Evidence provided suggests that up to 90 per cent of supported employees would lose their
jobs.

Australian Disability Enterprises are a critical social investment by government. They must
remain sustainable and be able to effectively support their workers. Without programs such as
those provided by Australian Disability Enterprises, many supported employees with physical
or intellectual handicaps would not be able to find employment.
Many of the programs run for the benefit of the employees and are not profit-making enterprises. They exist to ensure that people who could otherwise not participate in the workforce have an avenue in which to contribute to their community, develop skills, and make connections and friendships out of the house.

This bill is commendable and is worthy of support, because it provides certainty to working Australians with an intellectual disability. It also provides a sustainable basis for ADEs to continue to operate by providing payments to a large number of employees that they could otherwise not afford. It signals to supported employees that the government is committed to ensuring that they are paid appropriately and in accordance with a fair scheme, and that they are paid in recognition of what was in the past an unfair scheme.

This scheme—and these bills—must be seen as a balancing act. It must balance the responsibility of the government to respond equitably and fairly to the findings of discrimination by the Federal Court and the continued viability and longevity of Australian Disability Enterprises and the 20,000 Australians who are given an opportunity by these businesses to contribute to our society.

Overall, it is a fair scheme offered in good faith to those who have an intellectual disability, work for an Australian Disability Enterprise and have had their wages assessed under the Business Services Wage Assessment Tool. Let's remember why this scheme exists and keep in mind the 20,000 disabled Australians that it will continue to support in the workforce. I believe it is a fair scheme that achieves a balance of objectives and, as such, is worthy of the support of the Senate.

Senator LINES (Western Australia) (12:48): I rise to oppose the Business Services Wage Assessment Tool Payment Scheme Bill 2014, unless the very sensible amendments that Labor has put forward can be agreed to today. It is the Abbott government's shame that we cannot stand here today and have bipartisan agreement on an issue which is so important.

It seems, as we have stood many times as an opposition opposing the harsh cruel measures of the Abbott government, that anyone in our society who needs a little more support or consideration, that that support and consideration is simply not given. Their agenda is to seemingly say to our community as a whole: 'You're on your own. It's up to you. Make your own way, because we're not there to provide that additional support that groups may require.'

All the heavily lifting on issues around people with disability has been done by Labor. We had bipartisan support then as we have seen in aged care, NDIS, child care and a whole range of other areas, but the Abbott government is simply seeking to undo some fundamental principles around helping those in our community who need that additional support.

In speaking to this bill this morning, I looked back at our recent history of people with disability. It is true to say that in the past—and I hope we are long past this—people with disability have been ignored, hidden, and locked away in asylums and other specialist institutions. If we look even further back, people with disability have been subjected to public ridicule through appearances at circuses and the like—a shameful history, which of course has left its mark.

Our most recent past is to view those people with disability as a problem which society has to deal with. We did that by placing people in institutions and/or prisons and the appalling
practice of sterilising women and girls. I sincerely hope as a society we are long past that culture, those practices and those beliefs.

Looking at Australia's history, there have been some major milestones. The first of those was in 1908 when the Australian government introduced the invalid pension, which of course increased the independence of people with disability as well as providing them with the acknowledgment to some extent of being recognised members of society. That is from the People with Disability website, which provides a really good history of people with disability in Australia.

Our involvement in World Wars I and II and indeed the Vietnam War forced Australian society to be more inclusive as people came back with injuries which prohibited them from participating in their communities in the way that they had previously. Indeed people also came back with intellectual impairment. So it forced us to recognise that people with disability have the right to live a decent life and be properly supported in leading that decent life. Just saying that people have a right to live a decent life, without putting in the underpinning supports, is paying lip service. It is talking the talk; it is not walking the walk.

I turn now to the particular bill before us. The Australian disability enterprises are, of course, commercial businesses. They employ people with disability who need support to stay in paid work. We all know that enabling decent, respectful employment assists everyone in our community, and people with disability are no different. Work enables them to participate more fully in community life, as indeed it does for all Australians who seek work. There are almost 200 Australian disability enterprises across Australia, and they support 20,000 people with disability. I think the recent stats say there are about half a million Australians who have some sort of disability living in our communities.

Labor believe—and not only believes but has a strong and proud record—that more needs to be done to support people with disability into employment, which is why Labor introduced the National Disability Insurance Scheme. That is the most significant reform to disability services in this country's history. It will become the Medicare of the future. It is something that should be above party politics and should be supported by every single member of parliament and senator in this place. But of course that savage Abbott government budget continues to wreak havoc on all sections of the Australian community. We see in the 2014-15 budget that it is full of savage cuts to people with disability. I know the government will try to play that down, deny it and say it is putting more money in, but the facts are that it is full of cuts to people with disability, their families and their carers. They have been abandoned by the Abbott government.

The coalition government have a history of this. When they were last in government, the value of Commonwealth funding for disability services was cut repeatedly and dramatically. They capped the number of disability employment assistance places. Why as a government would you deny people with disability the opportunity to work? But that is what happened as a result of their capping. Many people simply missed out, fell on the scrap heap and were denied the opportunity to make a meaningful contribution that was good for society and good for them as individuals. Like Labor did in aged care and schools, Labor has done the heavy lifting to repair this. We invested $3.2 billion and uncapped those disability employment assistance places. As a result of that, around 160,000 disability employment service participants with disability found work.
Let's look at the bill, which will establish a payment scheme for supported employees with intellectual disability in Australian disability enterprises who previously had their wages assessed under the business services wage assessment tool, which was developed in 2003. It will determine the wages of about half of all workers in the Australian disability enterprises. Both the Federal Court and the High Court have determined independently that the business service wage assessment tool has discriminated against some people with intellectual disability. When that decision came down, I heard people with disability being interviewed, and I was appalled at how little they earned. That wage would have made no contribution to their wellbeing from the work that they did, failed to recognise the value of their work and did not enable them to lead independent lives. That decision found that a supported employee with an intellectual disability may never be able to meet the competency component measured by that tool, because it was set too high. Of course we know that further representative proceedings are in train.

This means that these Australian workers, some of the most vulnerable in our community, have been paid less than they should have, and to hear their stories was quite appalling. When listening to their stories, Australians who believe in the wellbeing of all Australians, as I do, should be ashamed. I was appalled to hear the sorts of wages they were receiving. They were certainly not wages anyone could live on.

Of course this issue is a complex one. The government tells us the idea of the scheme is to provide some reassurance to supported employees and their families and carers. That is a good thing. We should be providing a reassurance, and Labor supports that reassurance. But Labor cannot and will not support this bill in its current form. It goes back to the old days when people with disability were locked away, when they were not respected, when the value of the work they provide to our communities was not acknowledged. The government wants to just push this through the Senate without consultation with key stakeholders. We are way beyond that in this area. We do need the input of stakeholders. That is how we can inform ourselves correctly. That is how we can make good decisions. When governments make decisions in isolation without any consultation with expert groups and stakeholders, we get these mean-spirited decisions which actually will make life harder and will treat people with disability trying to make a living in the harshest way. That is what happens when governments make decisions in isolation.

So it is back to the bad old days when government knew best and there was no consultation with stakeholders: 'We'll tell you what's good for you.' I thought we were long past that. Certainly Labor is long past that kind of approach. That is why we called for the Senate inquiry. It is why Labor insisted there be a Senate inquiry. That was to give stakeholders some opportunity to give their evidence to government. Of course, as we know, the inquiry raised some real concerns with the bill, and Labor senators on the committee expressed very serious reservations and very serious concerns that the bill effectively extinguishes a person's legal rights. So that bill takes us right back to before 1908 when we first had the invalid pension. We are saying to people with disability, 'We know what's best for you.' To extinguish someone's legal rights is something that Labor senators will not stand for.

The bill stipulates that a person ceases to be a group member of any relevant representative proceeding at the time the acceptance of a payment under the scheme is lodged. Labor cannot support provisions in the bill that seek to extinguish a person's right to pursue compensation
through the courts. It is extinguishing that right, whether you have a disability or not and whether you have a physical disability or an intellectual disability. We should not, as a parliament, be extinguishing anyone's rights to proceed to legal action if they believe it is in their best interests to do so. And for the government to put into the bill provisions that do that just shows that it is a patronising attempt—it is just saying to people with disability: 'We're back to the old days. We'll tell you what's good for you. And by the way, we're not going to allow you to appeal your rights.'

We have seen other legislation where the government has done similar sorts of things. This is a government that thinks it knows best and is patronising to a number of groups in our community, and today the target is people with disability.

Labor is determined to see workers with a disability receive fair pay, and we are determined to make sure they retain their legal rights as an absolute minimum. Labor stands here today to urge the government to get on with the very important job of developing a new wage assessment process, one that does not discriminate against anyone with any type of disability—a fair instrument—and, further, to urge them not to extinguish legal rights that workers have.

In giving evidence to the current Senate inquiry, People with Disability Australia argued that:

The Bill is a clear attempt on behalf of the Commonwealth to avoid implementation of the Nojin and Prior judgement, and to sabotage the current representative action for compensation by people with intellectual disability who experienced discrimination as a result of having their wages assessed using the BSWAT. In doing so, the Bill will exploit the vulnerable circumstances of people with intellectual disability who work in ADEs, by providing a payment in exchange for their consent to maintain a system of wage determination which has been proven to discriminate against them.

This absolutely clear assessment, this rich evidence, from one of the stakeholders of what the government's bill will do to people with disability—particularly those with intellectual disability—would have been completely missing if we had not had a Senate inquiry, because the government, again, simply failed to consult with those who are advocates in our system. There is just that failure to consult. And why? Because they knew, I can only presume, that this is exactly what would happen, and they did not want this evidence on the public record; that would be the only reason you would not consult with stakeholders. They did not want to create a fuss and thought they could slip this in through the back door. We have seen them do it in a whole range of other areas, to try to avoid the scrutiny of the parliament and to try to avoid the scrutiny of the work of the Senate in the committee. Here we have a real, live example of exactly why the government wants to do that, because their bill absolutely and categorically seeks to extinguish the legal rights of workers with an intellectual disability—and not only that; it wants to keep their pay as low as possible. Who knows why? Maybe they think that these commercial enterprises should make a big profit off the backs of people with disability. And, if they make a profit, good on them. But, in the meantime, let us pay people fairly and use a tool that is independent and fair, and that absolutely adequately and properly assesses somebody's ability to work. But, no—government knows best! It is out there saying: 'This is the way we will move forward.' Well, Labor is not going to support that unless our amendments are absolutely considered and taken on board by the government.
Labor senators of the committee recommended that the provisions of the bill which seek to extinguish a person's right to pursue compensation through the courts be rejected. I mean, that is the essence of what the government is trying to do: extinguish someone's rights. What sort of government would do that? Who is advising the government that this is a good course of action? It is not. And where does it stop? If we extinguish the rights here, who is the next group to have their rights extinguished? I know the government might think that it might be able to get on with its harsh, cruel agenda more freely if it was able to just extinguish rights here and there and not allow anyone the right of appeal, but I can absolutely assure you: Labor will not stand by and allow any workers or any people to have their rights extinguished in this harsh, cruel way. To not have a tool that properly assesses somebody's competencies which will lead to a decent and fair pay is quite disgraceful. We are going back to the old days, when people with disability were not respected.

Of course, we are also very concerned by any rules that do not ensure that nominee provisions are used as a last resort. The nominee rules under the NDIS Act are underpinned by principles of supported decision-making and by the Convention on the Rights of Persons with Disabilities, which Labor signed up to in 2008. Certainly Labor remains very concerned that nominee provisions in this bill are not premised on this principle of supported decision-making. The Human Rights Committee has sought advice from the minister as to whether the decision-making models in place are compatible with the rights to equality and nondiscrimination, and Labor urges the government to publish the proposed rules as soon as possible and undertake extensive consultation on them to ensure that they are consistent with the principle of supported decision-making and consistent with the NDIS, which they claim they are signed up to.

To extinguish someone's rights and to not pay a fair wage are not principles that Labor will support, and I am saying to the government today: take our amendments seriously, otherwise we cannot support these bills.

Senator LAMBIE (Tasmania) (13:08): I rise today to oppose the Business Services Wage Assessment Payment Scheme Bill 2014. It is just another attack on vulnerable Australians from this government. We have seen a total disregard for the lives of people who do not have much, who work hard and who suffer against the odds because they are unemployed, because they are carers, because they are sick or because they have a disability. This has to stop.

In this case, it is very clear that we have a group of over 10,000 Australians who have worked hard in their jobs for many years and were not paid their fair wages because of discrimination. They work in factories, in offices and in gardening businesses, all over Australia. Some people earn as little as $1 or $2 an hour. These are the lowest wages in Australia. More than 10,000 workers with intellectual disabilities have been paid under a tool called the Business Services Wage Assessment Tool, the BSWAT, for more than 10 years. BSWAT is a tool that was created by, and is still run by, the Commonwealth government. Under BSWAT workers with intellectual disabilities are paid a proportion of the minimum wage for their work, depending on how productive they are compared with a worker without a disability as well as how they respond to a series of abstract questions.

In 2012 the full Federal Court found that using BSWAT to calculate wages was unlawful, because it required workers with intellectual disabilities to answer questions instead of looking at how productive they were at their jobs. The Commonwealth then appealed to the
High Court and lost that case. The result of this appeal made it clear what the courts think: that BSWAT discriminates against workers with intellectual disabilities. It also made it clear that the same ruling should apply to the other 10,000 workers in the same situation. However, instead of then stopping the use of BSWAT, the Commonwealth allowed workers to continue to suffer unlawful discrimination and did not offer a cent until now. Because of that, a class action is currently before the Federal Court seeking to enforce the Federal Court and High Court decisions for these employees and fairly compensate them for the work they have completed. This court case is seeking full back payment for all workers and is in line with the decision the courts have already made on this matter.

And now, instead of paying the workers what they are owed, the government has brought this legislation before the Senate. This legislation tells workers who have been unlawfully underpaid for many years that they should accept a payment of just half of what they are owed. Worse than that, it tells them that they need to give away their legal right to participate in the class action and seek full back payment for work already completed. If they take the payout, they lose half of what they are actually owed. That is not fair in anyone's book—certainly not mine. And it is un-Australian.

I am also very concerned about the government's proposal that would allow the Secretary of the Department of Social Services to appoint nominees. These nominees can make decisions for a worker with an intellectual disability, including the decision to accept an offer under the BSWAT Payment Scheme. Nominees can be appointed without the worker's consent and without the basic requirement that they act in the worker's best interests or following their wishes or their preferences. That is not a good process, and it leaves the secretary in a serious conflict of interest. It leaves workers and their families without any power to decide their own future. This aspect of the bill is deeply concerning to me. It makes me think that the whole goal of this legislation is to trick workers out of their lost wages. The government does not need to pass legislation to make payments to these workers. There is nothing stopping the government from simply paying workers the back pay that they are owed. The only purpose of this legislation is to extinguish the legal rights of these workers and to bypass the courts. This is a manipulative attempt by the government to legislate around the courts and take advantage of a vulnerable group of Australians.

I will vote against this bill, because I think it is a crude attempt to take away the rights of vulnerable people and amounts to the government stealing half of what the workers are owed. These workers are the people in our society who can least afford this attack. They are sons and daughters and brothers and sisters. They have mums and dads and are important members of our communities. We need to support them. The bill is also inconsistent with the National Disability Insurance Scheme, which is about protecting the rights of people with disabilities and ensuring that they have choice and control over their circumstances. I will always stand up and do what is right, and I will demand that the other senators here do the same, including those from the ALP and the Greens and other crossbenchers. I hope that all senators will join me in rejecting this bill and telling the government to sit down with workers and their families and resolve this back pay issue in a fair way so that every person gets their full entitlements, because that is the Australian way. The Senate should not be used as a way to steal wages from vulnerable people and to undermine the legal system and courts of our country. I oppose
this bill and call on other senators to stand with me to protect the rights of workers with intellectual disabilities and reject this bill.

Senator BILYK (Tasmania—Deputy Opposition Whip in the Senate) (13:14): I am pleased to speak today on the Business Services Wage Assessment Tool Payment Scheme Bill 2014. As we all know, Labor has been a champion of the rights of people with disability. We created the NDIS, the greatest reform for people with disability that this country has seen. It is sad that this government has scrapped the position of disability discrimination commissioner. This would have been a short-sighted decision at any time, let alone when the National Disability Insurance Scheme is rolling out across the country.

We know that people with disability have an enormous amount to contribute to our society and also to the labour market. We all know employment provides confidence and dignity and a sense of purpose. There are many jobs where people with disability can fill roles productively, given the appropriate support. All workers, especially workers with disability, deserve work which is inclusive and provides workers with the safe, fair and friendly workplace, fulfilling social interactions, freedom, dignity, opportunity, a fair wage and economic security.

There are almost 200 Australian disability enterprises across Australia supporting 20,000 workers with disability. Australian disability enterprises are commercial businesses employing people with disability who need support to stay in paid work. Employees are paid a pro rata wage determined using a wage tool including the business services wage assessment tool, commonly known as the BSWAT. The BSWAT measure measures an employee's productivity and competence in performing a job. It is used to determine the wages of about half of all workers in Australian disability enterprises. This bill will, therefore, impact the lives of many of those 20,000 workers with disability who are working in Australian disability enterprises.

In 2012, two supported employees with intellectual disability took action in the Federal Court of Australia claiming that, by using the business services wage assessment tool to measure their work contribution and assess their wage, their employers with discriminating against them, compared to supported employees with physical disabilities. The full court of the Federal Court agreed, holding that the Australian disability enterprises concerned had contravened section 15 of the Disability Discrimination Act 1992. The Federal Court found that a supported employee with an intellectual disability may never be able to meet the competency component measured by the tool. That is the reason we are debating this bill today.

This bill will establish a payment scheme for supported employees with intellectual disability in Australian disability enterprises who previously had their wages assessed under the business services wage assessments tool. The bill will essentially provide top-up payment to eligible people who have had their wages assessed under BSWAT. If eligibility is established, a payment amount will be offered based on the amount the worker would have been paid at productivity element only had the BSWAT been applied. To be eligible for the payment scheme, a person must have an intellectual impairment and have been employed by an Australian disability enterprise, paid a pro rata wage determined under the BSWAT and have required daily support in the workplace from the ADE to maintain his or her employment. Applicants must seek financial counselling and legal advice before the
application is assessed. Access to legal advice through legal aid and financial counselling through the Commonwealth financial counselling services is funded through this scheme.

This is a complex issue. It is therefore vital that we get this bill right to give peace of mind for supported employees, their families and carers because it is important that all workers receive fair compensation for their work and historical injustices must be rectified. People with disability, their carers and families need to know that their payment is fair.

The Community Affairs Legislation Committee reported on this bill back in August. I am glad the committee had the opportunity to inquire into this bill because it allows the stakeholders to have a say about the bill. This government did not even bother to consult with the people who represent people with disability working in Australian disability enterprises. That is right, you all heard correctly: this government did not even bother to consult with the people who represent people with disability working in Australian disability enterprises. You would think that when the government creates legislation that impacts on people they would bother to consult with those people and their representatives first, but not this government. It is typical of the arrogant, gung-ho approach of this government that they try to rush through the legislation without caring about the impacts the bill would have on those involved. Time and time again has this Liberal-National government failed to listen to the people affected by their legislation. There is a fundamental injustice in the way Mr Abbott's government drafts legislation. I would suggest that they need to start changing. People with Disability Australia, a key stakeholder group, had this to say to the Senate inquiry— and I am a member of that committee:

To date, People with Disability Australia has not been consulted by the Commonwealth on any element of the Bill, on any plans to transition away from the BSWAT as required by the Australian Human Rights Commission, or on any plans to include us in providing support to people with disability affected by the Nojin and Prior case or the BSWAT in general.

The Commonwealth, DSS and ADEs should consult people with disability and their representative organisations on how best to support people with disability to understand the events that have led to the current situation and to prepare for the changes that may happen in the future. This should include the provision of independent advice and information.

I must say, I wholeheartedly agree with that. The government should consult people with disability and their representative organisations on how best to support people with disability. It is really not a difficult concept. I am glad Labor senators had the opportunity to scrutinise this bill in detail. I would like to thank everyone for the work they did in regard to the inquiry. At least some members of this place took the time to listen to the concerns of this sector. I want to make it clear that Labor senators do support the concept of the government making a payment as an interim measure while the government puts in place an appropriate non-discriminatory mechanism to ensure people receive their pay. As I have said, the government did not consult with stakeholders regarding this bill. Inclusion Australia said in their submission:

The BSWAT Bill before the Senate represents the failure of the supported employment program to provide employment for people with intellectual disability that upholds their human rights to work for fair and non-discriminatory wages.

The ACTU in their submission said:
the BSWAT Payment Scheme Bill 2014 … could serve to marginalise a large number of vulnerable workers by requiring them to forgo their legal rights to participate in an upcoming class action …

Senator Lines also mentioned this in her speech a few moments ago. I have to say I agreed with every word in Senator Lines’ speech. Similarly, the Australian Centre for Disability Law, ACDL, said in their submission:

The Bills, if enacted, would require supported employees to surrender their legal rights in relation to this ongoing disability discrimination as well as in relation to the past discrimination to which they have been subject.

Labor have circulated a number of amendments to the Business Services Wage Assessment Tool Payment Scheme Bill, which we hope those on the crossbenches will support. If these amendments are not passed, we will not be supporting this legislation. I just want to speak quickly about three amendments. Amendments (12), (14) and (18) will enable a person to receive payments under the bill without losing his or her right to seek compensation in relation to the use of a business services wage assessment tool assessment to work out a minimum wage payable to the person. This will allow those people who intend to seek such compensation to also receive payments under the bill. Labor does not believe we should be forcing people with disability to sign away legal rights. In fact, we should not be forcing anybody to sign away their legal rights. I am astounded that any sort of government could take it upon themselves—and think they are just a little bit smart—to try to push this through. It is an atrocious thing to have done. Not only is it harsh and unjust but it is unfair and, if I might say so, very un-Australian.

As I have said, we do not believe that anybody should be signing away any legal rights. We hope that these amendments will address the concerns of the ACTU, the ACDL, which were quoted previously, and other stakeholders. In their submission to the inquiry the ACTU also had concerns with the nominee provisions contained in this bill. They said:

The provisions in relation to the appointment of a nominee are not the solution to the problem of informed choice. In particular, we are concerned about the potential conflict of interest inherent in having a nominee appointed by the Departmental Secretary. If a nominee is required, it would be preferable that this person be directly nominated by the person with disability.

I have to say, I agree with that also. I can see a number of conflicts of interest in regard to having the departmental secretary nominate the representative for the person with disability. The AED Legal Centre had similar concerns. In their submission they state:

… this part of the Bill erodes the fundamental legal rights of employees with disability. We are seriously concerned that the Secretary has the power of appointing nominees notwithstanding the fact that the Secretary has an obvious conflict of interest in doing so.

Labor’s amendments call for the nominee provisions in the bill to be amended to more closely reflect the nominee provisions in the NDIS Act of 2013. This change would make the bill match the language of the UN Convention on the Rights of Persons with Disabilities and help Australia to fulfil our obligations under that convention. It would produce better outcomes for the workers with disability that are affected by this bill, and I call on the crossbenchers to, once again, support these amendments that we are making. Labor urges the government to get on with the very important job of developing a new wage assessment process—one that does not discriminate against anyone with any type of disability.
The Australian Centre for Disability Law was scathing of the government's inaction in this regard. Their submission to the Senate inquiry says:

No real work has been done by the Commonwealth or the ADE sector towards the re-determination of supported employee wage levels on the basis of a non-discriminatory wage assessment tool. Moreover, as the use of BSWAT is suspended, there has not been, and will continue not to be, any annual reassessment of BSWAT wage levels for existing employees. Supported employees are therefore becoming progressively worse off, as they are not receiving the increments they are entitled to even under the discriminatory BSWAT wage determinations system.

Inclusion Australia's submission to the Senate inquiry stated:

We believe it is important for the nation to "stop and think" about "what works" in terms of achieving meaningful employment outcomes for people with intellectual disability in terms of both fair wages and in taking their rightful place in the open labour market. This is what the principle of inclusion in the UN Convention on the Rights of Persons with Disabilities requires Australia to do.

I want the government to sit down with people with disability, employers and relevant others as soon as practicable to try to resolve this matter. This is the best approach to reach an outcome that is in the best interests of workers and employers. I call upon the crossbenchers here today to support the Labor Party's amendments to this legislation. They will clear up the deficiencies of this legislation and will prevent the removal of the legal rights of people with disability contained in this legislation.

Just before I conclude, I want to put on the record my thanks to the members and secretariat of the Senate Community Affairs Legislation Committee for the work they undertook in the inquiry into the business services wage assessment tool payment. That committee and secretariat worked very hard. They have a number of inquiries at any one time that they undertake. They do a sterling job in coming up with the outcomes that they come up with and the recommendations that they put forward to government. I thank them most sincerely for the hard work they did.

Senator FIFIELD (Victoria—Manager of Government Business in the Senate and Assistant Minister for Social Services) (13:28): I thank colleagues for their contributions in this debate on the Business Services Wage Assessment Tool Payment Scheme Bill 2014 and related bill. We are in the situation that we are because of a decision of the Federal Court in relation to two individuals, which bought into focus the issue of the business services wage assessment tool. In saying this, I am in no way reflecting on the previous government. The BSWAT issue was one that the incoming coalition government inherited from the previous government, but in saying that I am in no way, shape or form reflecting on the previous administration in relation to that matter. The business services wage assessment tool was created out of, I think, a spirit of good faith by the government of the day, which was the coalition government back in 2005. There has been nothing but goodwill on display from the unions and all interested parties in relation to how best to support the staff of Australian disability enterprises. Nevertheless, as we are the government it does fall to the government to seek to address the situation that we are in.

Colleagues would be well aware of the important role that Australian disability enterprises play in the nation. All colleagues would embrace the idea that there should be a continuum of employment options for Australians with disability, that there should be the opportunity for supported employment for people with significant needs in a more intensive environment.
such as an Australian disability enterprise. There should also be the opportunity for people with disability to be in the open workforce with a bit of extra support should they need that. There does need to be a range of options. If you have a significant disability, sadly, in Australia you are probably twice as likely to be unemployed.

As a parliament and as a Senate, we want to do whatever we can to ensure employment options for people with significant disability. I, for one, would not want to see Australian disability enterprises go out of business because of circumstances which may have been unforeseen. There really are two aspects to the matter before us. One is what we do looking to the future and the other is what we do looking to the past. In regard to what we do looking to the future, the government have announced $173 million to assist with the development of a new wage tool and also to assist disability enterprises with transition costs. The legislation that is before us, however, is intended to deal with the past. Without making any judgement on the past, it recognises the fact that there is a representative action afoot and the legislation seeks, in essence, to give a quick and simple alternative to people. That is essentially what we are seeking to do here.

It is important to recognise that the 2012 Nojin decision by a group of advocates representing people with disability related to just two workers not the whole cohort of people in Australian disability enterprises. Whether the BSWAT was discriminatory or not in relation to all ADE workers turns on each individual's circumstances. I think it is also important to remember that Mr Nojin and Mr Prior's legal representatives withdrew their claim for compensation at appeal; therefore, the court made no judgement in relation to compensation owed or not owed to them. I think that is an important point.

What we want to do with this legislation is provide the greatest amount of certainty that we possibly can for Australian disability enterprises, that the circumstances of the past will be addressed, that there will be the opportunity of a payment scheme for their supported employees. That knowledge of the existence of a payment scheme will provide some comfort and a greater degree of certainty to Australian disability enterprises. We also want to provide the payment scheme to provide certainty and simplicity for supported employees who may have had their wages previously determined under the BSWAT. As has been pointed out by many colleagues, many of those who are supported and many of those who work in Australian disability enterprises would be eligible under the government's proposed payment scheme, and often those are the people who face challenges for reasons beyond their control. We want a system that is straightforward and accessible to them.

It has been pointed out by colleagues in their contributions that the government are seeking to extinguish certain legal rights of supported employees. What this legislation seeks to do is actually the opposite. It seeks to give a choice to supported employees, that they can have the option of the representative action or they can have the option of the payment scheme. This legislation gives choice. As is common with these sorts of arrangements, you opt for one approach or the other. That is a choice that is there for supported employees. They can choose a representative action or they can choose the payment scheme.

If this legislation does not pass, we will see less choice for eligible supported employees than would be the case if this legislation did pass. For me, that is perhaps the single most important point of this legislation. This legislation offers choice. People have a legal right to pursue a representative action and that is their choice. Should this legislation pass, they will
have another avenue of opportunity. Which path they choose is entirely up to them. But what is clear if this legislation does not pass is that the payment scheme will not be established and there will be narrower choice. There will be less choice for supported employees. I ask colleagues to reflect on that as they consider the matter that is before us.

I want to acknowledge the constructive approach that a number of colleagues have taken in this debate, particularly Senator Moore. We may quibble on some of the amendments, but Senator Moore is very positive and constructive in relation to these matters. Senator Siewert as well approaches these matters in good spirit. I also want to acknowledge the Palmer United Party, particularly Senator Wang and Senator Lazarus, with whom I have had very productive discussions, and the Palmer United Party have crafted an amendment which the government is happy to support. That is the spirit in which debates on matters such as this should be conducted.

As has been indicated to the opposition, I have some difficulty with some of their amendments, particularly those which would allow individuals to access both the payment scheme and a representative action at the same time—to pursue their avenues under both mechanisms. The opposition will counter that, under the proposed amendments, there would be the opportunity, if someone were successful at law, having also drawn down on the payment scheme, to seek to recoup funds equivalent to those which had been drawn down from the payment scheme. I acknowledge that. But I do not think it is desirable or necessarily 'real world' to seek to recoup payments from someone who is potentially vulnerable. It is a messy process which those opposite propose. I think it is much better to have a cleaner, simpler arrangement, where individuals have the choice of a representative action or a payment scheme. Seeking to allow individuals to be part of both and net out the difference and have a recovery mechanism is fraught at a number of levels.

The other main amendment of the opposition is that which relates to nominee provisions. The government have sympathy with the opposition's approach, but that is an approach which we think can and should be given effect to through the regulations rather than through the primary legislation essentially seeking to achieve the same outcome but through a different mechanism.

I commend the legislation to colleagues. I think colleagues should reflect on the difficulties that there would be in allowing people to take part in both a representative action and the payment scheme and then seek recovery of moneys if people ended up being successful at all. I think that is fraught.

I should also point out that the government has amendments—and I will move them shortly—in relation to some minor administrative matters which are essentially a tidying-up and which I do not think will cause colleagues any concern. But I will leave it at that. We will no doubt have a committee stage, given the amendments that there are from colleagues, and I look forward to contributions at that point.

Question agreed to.

Bills read a second time.

In Committee

Bills—by leave—taken together and as a whole.
Senator FIFIELD (Victoria—Manager of Government Business in the Senate and Assistant Minister for Social Services) (13:41): I table a supplementary explanatory memorandum relating to the government amendments and requests for amendments to be moved to the Business Services Wage Assessment Tool Payment Scheme Bill 2014. I seek leave to move together the amendments and requests for amendments circulated by the government, in my name, on sheet EH127.

Leave granted.

Senator FIFIELD: I move:

(1) Clause 3, page 2 (line 10), omit "1 May 2015", substitute "1 July 2015".

(2) Page 3 (after line 6), after clause 3, insert:

3A Constitutional basis

Without limitation, this Act relies on:

(a) the Commonwealth's legislative powers under paragraphs 51(xxiiiA) and (xxxix) of the Constitution; and

(b) any implied legislative powers of the Commonwealth.

(3) Clause 4, page 4 (line 8), omit "subsection 6(2)", substitute "subsections 6(2) and (2A)".

(4) Clause 6, page 6 (line 19), omit "28 May 2014", substitute "31 January 2015".

(5) Clause 6, page 7 (after line 5), after subclause (2), insert:

(2A) Despite subsection (2), a person does not meet the condition in that subsection, and there is no eligible day for the person, if the day that (apart from this subsection) would have been the earliest eligible day for the person is later than 28 May 2014.

(6) Clause 12, page 11 (line 7), omit "1 May 2015", substitute "1 July 2015".

(7) Clause 13, page 13 (line 5), omit "1 May 2015", substitute "1 July 2015".

(8) Clause 13, page 13 (line 15), omit "1 May 2015", substitute "1 July 2015".

(9) Clause 14, page 13 (line 21), omit "1 May 2015", substitute "1 July 2015".

(10) Clause 16, page 14 (line 11), omit "1 May 2015", substitute "1 July 2015".

(11) Clause 37, page 30 (line 1), omit "or by", substitute ", the person or".

(12) That the House of Representatives be requested to make the following amendment:

Page 64 (after line 23), after clause 98, insert:

98A Certain administrative matters

(1) The Commonwealth may do any or all of the following:

(a) inform people about the BSWAT payment scheme;

(b) engage one or more persons to undertake activities (whether or not on behalf of the Commonwealth) in relation to informing people about the BSWAT payment scheme and make payments for services provided under such engagements;

(c) publish contact details and background information on behalf of legal practitioners who have indicated their availability to provide services in relation to legal advice certificates referred to in section 36;

(d) publish contact details and background information on behalf of financial counsellors who have indicated their availability to provide services in relation to financial counselling certificates referred to in section 37;
(e) make payments, in accordance with the rules, in discharge of costs, expenses or other obligations incurred by a person in connection with obtaining a legal advice certificate that complies with section 36 or a financial counselling certificate that complies with section 37 or otherwise in connection with a person's participation in the BSWAT payment scheme.

(2) A power conferred on the Commonwealth by subsection (1) may be exercised on behalf of the Commonwealth by the Secretary.

(3) This section does not, by implication, limit the executive power of the Commonwealth.

(13) That the House of Representatives be requested to make the following amendment:
Clause 99, page 64 (line 25), before "The", insert "(1)".

(14) That the House of Representatives be requested to make the following amendment:
Clause 99, page 65 (line 3), at the end of the clause, add:
; and (c) payments under subsection 98A(1).

(2) Paragraph (1)(c) does not extend to payments in relation to the employment of APS employees in the Department.

The statement of reasons accompanying the request read as follows—
Parliamentary Counsel
Business Services Wage Assessment Tool Payment Scheme Bill 2014
EH127
Statement of reasons: why certain amendments should be moved as requests
Section 53 of the Constitution is as follows:

Powers of the Houses in respect of legislation
53. Proposed laws appropriating revenue or moneys, or imposing taxation, shall not originate in the Senate. But a proposed law shall not be taken to appropriate revenue or moneys, or to impose taxation, by reason only of its containing provisions for the imposition or appropriation of fines or other pecuniary penalties, or for the demand or payment or appropriation of fees for licences, or fees for services under the proposed law.

The Senate may not amend proposed laws imposing taxation, or proposed laws appropriating revenue or moneys for the ordinary annual services of the Government.

The Senate may not amend any proposed law so as to increase any proposed charge or burden on the people.

The Senate may at any stage return to the House of Representatives any proposed law which the Senate may not amend, requesting, by message, the omission or amendment of any items or provisions therein. And the House of Representatives may, if it thinks fit, make any of such omissions or amendments, with or without modifications.

Except as provided in this section, the Senate shall have equal power with the House of Representatives in respect of all proposed laws.

Amendment (14)
The effect of this amendment is to expand the purposes for which payments may be made out of the standing appropriation of the Consolidated Revenue Fund in clause 99 of the Bill. It is covered by section 53 because expanding the purposes for which payments may be made out of the standing appropriation may increase the amount of expenditure out of the Consolidated Revenue Fund under that standing appropriation.
Consequential amendments

Amendments (12) and (13) are consequential on the amendment mentioned above.

Business Services Wage Assessment Tool Payment Scheme Bill 2014

Statement by the Clerk of the Senate pursuant to the order of the Senate of 26 June 2000

Amendment (14)

The stated effect of paragraph 99(c) contained in this amendment is to provide for payments to be made, for actions or activities specified in new clause 98A, from the Consolidated Revenue Fund. The increased expenditure would be met directly from the standing appropriation contained in clause 99 of the bill.

The Senate has long followed the practice that it should treat as requests amendments which would clearly, necessarily and directly result in increased expenditure under a standing appropriation. If, as stated, this amendment would result in increased expenditure under the standing appropriation in clause 99 of the bill, it is in accordance with the precedents of the Senate that this amendment be moved as a request.

Amendments (12) and (13)

Amendments (12) and (13) are consequential on the request. It is the practice of the Senate that amendments purely consequential on amendments framed as requests may also be framed as requests.

Question agreed to.

Senator MOORE (Queensland) (13:44): By leave, I move opposition amendments (1), (9), (16), (21) to (24); and requests (2) to (8), (10), (11), (13) to (15), (17) to (19), and (25) on sheet 7544 together:

(1) Clause 3, page 2 (lines 23 to 24), omit "by force of this Act, the person will cease to have certain legal rights", substitute "if the person receives compensation in relation to the use of the Business Services Wage Assessment Tool, some or all of that compensation may be recoverable by the Commonwealth".

(2) Clause 4, page 3 (line 14), omit "matter referred to in subsection 10(2)", substitute "possible ground for compensation".

(3) Clause 4, page 3 (line 17), omit "matter referred to in subsection 10(2)", substitute "possible ground for compensation".

(4) Clause 4, page 4 (lines 14 and 15), omit the definition of group member.

(5) Clause 4, page 5 (after line 1), after the definition of payment amount, insert:

possible ground for compensation has the meaning given by section 10.

(6) Clause 4, page 5 (lines 9 and 10), omit the definition of relevant representative proceeding.

(7) Clause 4, page 5 (lines 11 and 12), omit the definition of representative party.

(8) Clause 4, page 5 (lines 13 and 14), omit the definition of representative proceeding.

(9) Page 5 (after line 16), at the end of Part 1, add:

4A General principles guiding actions under this Act

(1) People with disability have the same right as other members of Australian society to respect for their worth and dignity and to live free from abuse, neglect and exploitation.

(2) People with disability have the same right as other members of Australian society to pursue any grievance.
People with disability have the same right as other members of Australian society to be able to determine their own best interests, including the right to exercise choice and control, and to engage as equal partners in decisions that will affect their lives, to the full extent of their capacity.

People with disability should be supported in all their dealings and communications with the Department so that their capacity to exercise choice and control is maximised in a way that is appropriate to their circumstances and cultural needs.

People with disability should have their privacy and dignity respected.

The role of families, carers and other significant persons in the lives of people with disability is to be acknowledged and respected.

It is the intention of the Parliament that the Minister, the Secretary and any other person or body is to perform functions and exercise powers under this Act in accordance with these principles.

4B General principles guiding actions of people who may do acts or things on behalf of others

It is the intention of the Parliament that, if this Act requires or permits an act or thing to be done by or in relation to a person with disability by another person, the act or thing is to be done, so far as practicable, in accordance with both the general principles set out in section 4A and the following principles:

(a) people with disability should be involved in decision making processes that affect them, and where possible make decisions for themselves;

(b) the judgements and decisions that people with disability would have made for themselves should be taken into account;

(c) the cultural and linguistic circumstances, and the gender, of people with disability should be taken into account;

(d) the supportive relationships, friendships and connections with others of people with disability should be recognised.

(10) Clause 5, page 6 (line 7), omit "person;", substitute "person.".

(11) Clause 5, page 6 (line 8), omit paragraph (c).

(12) Clause 9, page 8 (line 23) to page 9 (line 23), to be opposed.

(13) Heading to clause 10, page 9 (line 24), omit the heading, substitute:

10 Possible ground for compensation

(14) Clause 10, page 9 (lines 25 to 34), omit subclause (1).

(15) Clause 10, page 10 (lines 1 to 3), omit "(2) The matters are the following, to the extent to which they relate to the use of a BSWAT assessment to work out a minimum wage payable to a person", substitute "Each of the following matters is a possible ground for compensation for a person, to the extent to which it relates to the use of a BSWAT assessment to work out a minimum wage payable to the person".

(16) Clause 19, page 17 (line 9), omit "sections 9 and 10", substitute "section 41A".

(17) Clause 38, page 30 (line 16), omit "person; and", substitute "person.".

(18) Clause 38, page 30 (lines 17 and 18), omit subparagraph (c)(iii).

(19) Clause 38, page 30 (lines 19 to 21), omit the note.

(20) Clause 39, page 30 (line 22) to page 31 (line 3), to be opposed.

(21) Page 31 (after line 19), at the end of Part 3, add:
Division 8—Recovery of payments from alternative amounts

41A Recovering payments from alternative amounts

(1) This section applies if:
   (a) a payment amount for a person has been paid under this Act; and
   (b) there is an alternative amount for the person.

(2) An amount (the recoverable amount) is payable by the person to the Commonwealth. The recoverable amount is equal to the smaller of the following amounts:
   (a) the alternative amount;
   (b) the payment amount.

Note: For debt recovery, see Division 4 of Part 5.

(3) If the Commonwealth is liable to pay an amount of compensation referred to in paragraph (1)(a), the Commonwealth may set off the recoverable amount against the amount of compensation.

41B Secretary may send preliminary notice

(1) If:
   (a) a payment amount for a person (the payment recipient) has been paid under this Act; and
   (b) the payment recipient makes a claim against another person (the potential compensation payer) for compensation; and
   (c) the compensation would, if paid or payable, result in there being an alternative amount for the payment recipient;

   the Secretary may give written notice to the potential compensation payer that the Secretary may wish to recover an amount from the potential compensation payer.

(2) A notice under subsection (1) must contain:
   (a) a statement of the potential compensation payer's obligation under section 41C; and
   (b) a statement of the effect of section 41D.

41C Offence—potential compensation payer

A person (the potential compensation payer) commits an offence if:

(a) the potential compensation payer is given a notice under section 41B in relation to a person (the payment recipient); and

(b) before or after receiving the notice, the potential compensation payer agrees, or becomes liable, to pay compensation to the payment recipient; and

(c) the compensation resulted, or would result, in there being an alternative amount for the payment recipient; and

(d) the potential compensation payer does not give written notice to the Secretary of the agreement or the liability within 7 days after forming the agreement or becoming liable, or receiving the notice, whichever is later.

Penalty: Imprisonment for 12 months or 60 penalty units, or both.

41D Secretary may send recovery notice

(1) If:
   (a) a payment amount for a person (the payment recipient) has been paid under this Act; and
   (b) another person (the compensation payer) is liable to pay compensation to the person; and
   (c) the compensation would, if paid, result in there being an alternative amount for the payment recipient;
the Secretary may give written notice to the compensation payer that the Secretary proposes to recover from the compensation payer the amount specified in the notice.

(2) If a compensation payer is given a notice under this section, the amount specified in the notice is payable by the compensation payer to the Commonwealth.

Note: For debt recovery, see Division 4 of Part 5.

(3) The amount to be specified in the notice is the lesser of the following:

(a) the payment amount;

(b) the amount of the compensation.

(4) A notice under this section must contain a statement of the effect of section 41G so far as it relates to such a notice.

(5) This section applies to an amount payable by way of compensation in spite of any law of the Commonwealth, a State or Territory (however expressed) under which the compensation is inalienable.

41E Preliminary notice or recovery notice suspends liability to pay compensation

If a person (the compensation payer) has been given a notice under section 41B or 41D in relation to the compensation payer’s liability, or possible liability, to pay compensation, the compensation payer is not liable to pay that compensation while the notice has effect.

41F Compensation payer’s payment to Commonwealth discharges liability to participant

Payment to the Commonwealth of an amount that a person (the compensation payer) is liable to pay under section 41D in relation to another person (the payment recipient) operates, to the extent of the payment, as a discharge of:

(a) the compensation payer’s liability to pay compensation to the person; and

(b) the payment recipient’s liability to pay the Commonwealth.

41G Offence—making compensation payments after receiving preliminary notice or recovery notice

(1) A person (the potential compensation payer) commits an offence if:

(a) the potential compensation payer has been given a notice under section 41B or 41D in relation to the payment of compensation to a person; and

(b) the potential compensation payer makes the compensation payment to the person.

Penalty: Imprisonment for 12 months or 60 penalty units, or both.

(2) Subsection (1) does not apply if:

(a) in the case of a notice under section 41B—the Secretary has given the potential compensation payer written notice that the notice is revoked; or

(b) in the case of a notice under section 41D—the potential compensation payer has paid to the Commonwealth the amount specified in the notice; or

(c) the Secretary has given the potential compensation payer written permission to pay the amount.

41H Liability to pay the Commonwealth if there is a contravention of section 41G

(1) A person who contravenes section 41G is, in addition to being liable under that section, liable to pay to the Commonwealth:

(a) if the contravention relates to a notice under section 41B—an amount determined by the Secretary; or

(b) if the contravention relates to a notice under section 41D—the amount specified in the notice.

(2) The amount determined by the Secretary under paragraph (1)(a) must not be more than the amount that would have been specified in a notice under section 41D if one had been given.
(3) This section applies in relation to a payment by way of compensation in spite of any law of the Commonwealth, a State or Territory (however expressed) under which the compensation is inalienable.

(4) The amount determined by the Secretary under paragraph (1)(a) or specified in the notice under section 41D is payable by the person to the Commonwealth.

(22) Clause 67, page 47 (line 12), omit "where an amount is wrongly paid to a person".

(23) Clause 67, page 47 (line 15), omit "the person", substitute "a person".

(24) Clause 84, page 56 (after line 28), after subclause (3), insert:

(3A) An amount payable by a person to the Commonwealth under subsection 41A(2), 41B(2), 41D(2) or 41H(4) is a debt due to the Commonwealth by the person.

(25) Clause 98, page 64 (lines 19 and 20), omit "matter referred to in subsection 10(2)", substitute "possible ground for compensation".

7544-EM

Business Services Wage Assessment Tool Payment Scheme Bill 2014

Statement pursuant to the order of the Senate of 26 June 2000

Amendments (12), (14) and (18)

The effect of these amendments will enable a person to receive payment under the Bill without losing his or her rights to seek compensation in relation to the use of a Business Services Wage Assessment Tool assessment to work out a minimum wage payable to the person. This will allow those who intend to seek such compensation to also receive payments under the Bill, resulting in an increase in expenditure under the standing appropriation in clause 99 of the Bill.

Amendments (12), (14) and (18) should therefore be moved as requests.

Amendments (2) to (8), (10), (11), (13), (15), (17), (19), (20) and (25)

These amendments are consequential on amendments (12), (14) and (18).

Amendments (2) to (8), (10), (11), (13), (15), (17), (19), (20) and (25) should therefore be moved as requests.

Statement by the Clerk of the Senate pursuant to the order of the Senate of 26 June 2000

Amendments (12), (14) and (18)

The stated effect of amendments (12), (14) and (18) is that it would allow an increase in expenditure to be met from the standing appropriation contained in clause 99 of the Bill.

The Senate has long followed the practice that it should treat as requests amendments which would clearly, necessarily and directly result in increased expenditure under an appropriation clause in a bill.

If, as stated, amendments (12), (14) and (18) would result in increased expenditure under the standing appropriation in clause 99 of the Bill, it is in accordance with the precedents of the Senate that those amendments be moved as requests.

Amendments (2) to (8), (10), (11), (13), (15), (17), (19), (20) and (25)

These amendments are consequential on the requests. It is the practice of the Senate that amendments purely consequential on amendments framed as requests may also be framed as requests.

These amendments relate to the issue of preserving the right to legal redress, as we have discussed in the contributions we made earlier and also as responded to by the minister in his closing of the original debate. They relate particularly to the issue of whether in this case it is
better for people to have the option to retain their right to go through the legal process at the same time as maintaining the process to receive immediate payment.

I take the minister's point in terms of what would be less intrusive or less difficult, but I draw the attention of the minister to the discussions that we had at the Community Affairs Committee, one being the importance of having appropriate legal support and reassurances from the department that there would be that ability. I continue to have the doubts that I raised at the committee in terms of ensuring that every single person would be able to get the detailed legal and financial support that is available in this legislation on the basis of just having that availability in the community to have practitioners who can do that. I am concerned about forcing the issue of people with disabilities, in some cases quite significant intellectual disabilities, having to make such a significant opt-in or opt-out decision on something that is so important to them. That came up consistently in the discussions that we had in the committee about ensuring that people knew what their rights were and ensuring that there were able to make the clear decision that was best for them.

The proposal of the opposition has put forward for consideration is a model that works already in other parts of government process, where the protection is there that people are not having to make an original decision which automatically concludes their options. They are allowed to continue to get some form of payment and then, should there be a different decision, the overpayment that is then created is then created formally as an overpayment and a repayment schedule created for that person. That operates already in a number of areas—in particular, compensation process and Department of Social Services processes.

I take the minister's concerns about whichever way you actually are working with people you want to ensure that they have the least stress in this process. We believe that this option maintains opportunities, maintains the choice that they are able to take up their legal options if they choose to and then be able to see which way they would be best protected or their futures secured. We strongly believe that this in fact is an appropriate option to offer for people; we believe there are protections of the system to allow it to occur; and we also believe that, should the legal and financial advice—which is already in this bill saying that people have to have that—that same legal and financial advice would be able to adequately talk about the impact of any overpayment. That should already be covered in the processes that are there.

We commend the amendments before you and we actually believe that it supports the process rather than in any way making it more complex.

**Senator SIEWERT** (Western Australia—Australian Greens Whip) (13:49): The Greens outlined our strong concerns with this whole bill during the second reading debate. These changes, while they go to address some of our concerns, do not address all our concerns. We still have deep concerns that this bill does not adequately address the issues that face people with disability who were paid under the BSWAT scheme. While we can agree with them in principle, they do not fix the bill and by agreeing to these in principle, we still do not support the bill.

**The TEMPORARY CHAIRMAN (Senator Lines):** The question is that amendments (1), (9), (16), (21) to (24); and requests (2) to (8), (10), (11), (13) to (15), (17) to (19), and (25) on sheet 7544, by leave together, be agreed to.
The committee divided. [13:55]
(The Temporary Chairman—Senator Lines)

Ayes ......................34
Noes ......................35
Majority .................1

AYES
Bilyk, CL (teller) Brown, CL
Bullock, J.W. Cameron, DN
Carr, KJ Collins, JMA
Conroy, SM Dustyari, S
Di Natale, R Faulkner, J
Gallacher, AM Hanson-Young, SC
Ketter, CR Lambie, J
Lines, S Ludlam, S
Lundy, KA McEwen, A
McLucas, J Milne, C
Moore, CM O’Neill, DM
Peris, N Polley, H
Rhiannon, L Rice, J
Siewert, R Singh, LM
Sterle, G Waters, LJ
Whish-Wilson, PS Wong, P
Wright, PL Xenophon, N

NOES
Back, CJ Bernardi, C
Birmingham, SJ Brandis, GH
Bushby, DC Canavan, M.J.
Colbeck, R Cormann, M
Day, R.J. Edwards, S
Fawcett, DJ Fierravanti-Wells, C
Fifield, MP Heffernan, W
Johnston, D Lazarus, GP
Leyonhjelm, DE Macdonald, ID
McGrath, J McKenzie, B
Muir, R Nash, F
O’Sullivan, B Parry, S
Payne, MA Reynolds, L
Ronaldson, M Ruston, A (teller)
Ryan, SM Scullion, NG
Seselja, Z Sinodinos, A
Smith, D Wang, Z
Williams, JR

PAIRS
Ludwig, JW Cash, MC
Marshall, GM Mason, B
Urquhart, AE Abetz, E
Question negatived.

The TEMPORARY CHAIRMAN (13:58): I now put the question that clauses 9 and 39 stand as printed.

Question agreed to.

Progress reported.

QUESTIONS WITHOUT NOTICE

Australian Broadcasting Corporation

Senator URQUHART (Tasmania—Deputy Opposition Whip in the Senate) (14:00): My question is to the Minister representing the Prime Minister, Senator Abetz. Can the minister confirm that over 400 jobs will be lost because the Prime Minister has broken his pre-election promise that there would be no cuts to the ABC?

Senator ABETZ (Tasmania—Leader of the Government in the Senate, Minister Assisting the Prime Minister for the Public Service and Minister for Employment) (14:00): As anybody who has been in this chamber even a nanosecond would know, these decisions are for the ABC to make in relation to staffing and in relation to programing. So it is not for the government to confirm anything in relation to the ABC savings that we are seeking to pursue for and on behalf of the Australian taxpayer.

What we are seeking to do is get our budget situation back into shape. It is vitally important that that occurs, because—

The PRESIDENT: Minister, the Clerk has not set the clock. Minister, you may now continue.

Senator ABETZ: Mr President, undoubtedly the Clerk was so enthralled by my commencement that she overlooked to turn on the clock.

The country has a serious situation that needs to be dealt with. We are borrowing $1,000 million per month just to pay the interest on the existing borrowings racked up by those on the other side. While those on the other side were in government they demanded efficiency dividends from national security bodies. They required efficiency dividends from health and from education. But do you know what? They never required them from the ABC. Some people might have their theories as to that. We, nevertheless, say that it is appropriate for the ABC to seek savings, to seek if they can spend the taxpayers' money in a better manner and ensure good return for the taxpayers' dollars.

So when the Australian Labor Party come into this place and champion increased spending for anything, I say to the Australian people and to this chamber: ask yourself one question—where does the money come from? It comes from the pockets of our fellow Australians. That is why any good government has to manage the economy in a sound manner. (Time expired)

Senator Wong: The Prime Minister is a liar.

Senator Abetz: That should be withdrawn.

The PRESIDENT: Senator Wong, you have to withdraw that.

Senator Wong: You are asking me to withdraw?

The PRESIDENT: What you just said, Senator Wong. You need to withdraw.

Senator Wong: I withdraw.
The PRESIDENT: Thank you, Senator Wong.

An opposition senator: The Prime Minister is a liar.

The PRESIDENT: Order! Don't repeat it.

Senator URQUHART (Tasmania—Deputy Opposition Whip in the Senate) (14:03): Mr President, I ask a supplementary question. Can the minister confirm that the ABC will close regional radio stations in the communities of Gladstone, Nowra, Morwell, Port Augusta and Wagin because the Prime Minister has broken his pre-election promise that there would be no cuts to the ABC?

Senator ABETZ (Tasmania—Leader of the Government in the Senate, Minister Assisting the Prime Minister for the Public Service and Minister for Employment) (14:04): As I said in answer to the first question, it is up to the ABC to make these determinations. But what I would say to the ABC management is to have a good look not at your regional centres but at other centres. I would invite them to have a look at Ultimo, in the heart of Sydney, and see whether any savings could be made there instead of cutting in regional areas.

As I have said before, we can make the suggestions and we can make the obvious of observations for the benefit of the ABC board and its management but, at the end of the day, it is for the ABC board and management to determine as to where they would seek to achieve their savings. But I have to say that Ultimo might be a very good place to start rather than in regional centres.

Senator URQUHART (Tasmania—Deputy Opposition Whip in the Senate) (14:05): Mr President, I have a further supplementary question. Minister, before the election, the Prime Minister claimed he would give Australians hope for a brighter future. Doesn't cutting local jobs and services and closing regional radio stations condemn communities around Australia to a bleaker future?

Senator ABETZ (Tasmania—Leader of the Government in the Senate, Minister Assisting the Prime Minister for the Public Service and Minister for Employment) (14:05): The honourable senator is right when she observes that the Prime Minister promised Australians a brighter future. And the bleakest future of all that Australians could face is a debt burden of $667 billion and a burden of deficits going way out, seeing literally thousands of millions of dollars being required to be borrowed each month just to pay off the interest incurred by the debts from those opposite.

Let's be very clear. If this country does want a bright future—and it voted for a bright future in September last year—then we need to get on with the task for which we were elected, which was to fix up the fiscal debacle that was left by Labor. And I do note that one of the greatest interjectors during this question thus far, as per normal, is none other than the failed finance minister of the previous government. (Time expired)

DISTINGUISHED VISITORS

The PRESIDENT: I draw to the attention of honourable senators the presence in the chamber today of a delegation of fellow parliamentarians from the ASEAN member states. On behalf of all senators, I wish you a warm welcome to the parliament and, in particular, to the Senate.

Honourable senators: Hear, hear!
QUESTIONS WITHOUT NOTICE

Budget

Senator EDWARDS (South Australia) (14:07): Mr President, my question is to the Minister for Finance and the Minister representing the Treasurer, Senator Cormann. Will the minister inform the Senate how the government's budget reforms build on the responsible policy reforms of previous governments?

Honourable senators interjecting—

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

Senator CORMANN (Western Australia—Minister for Finance) (14:07): Mr President, our challenge as a nation is to ensure that we can live within our means, to ensure our income covers our expenditure so that we do not have to keep borrowing from future generations in order to underwrite our lifestyle today and to ensure that we have a sustainable funding base for important services in welfare, health, education and all of the other important services that the Commonwealth provides. Of course governments of both persuasions, Labor and Liberal-National party governments in the past, have recognised the importance of structural reforms and sound policy when it comes to managing the budget, but not this Labor opposition under the leadership of Bill Shorten.

I just remind the Senate and I remind senators opposite that many of the reforms that we are talking about today are reforms that were first initiated by Labor governments in the past. For example, Bob Hawke introduced a co-payment on GP services in the 1991 budget, and we know that the shadow Assistant Treasurer, Mr Leigh, is strongly supportive of that particular proposition. A biannual indexation of the fuel excise commenced in August 1983 under Labor, and Paul Keating at the time said:

… every six months [the fuel excise is] adjusted for inflation—the real value of the tax does not change.

He also said:

… we are definitely not prepared to have the excise base of the Commonwealth eroded … the direct income tax burden will rise if other categories of tax receipts fall.

And wait for this, Mr President: who was it who introduced for the first time the efficiency dividend on the ABC? It was none other than Ralph Willis. Remember Ralph Willis? He said in 1999 that ‘the government decided that ABC funding should be maintained in real terms for the next two years but be subject to the efficiency dividend in the same way as all government departments and most budget funded agencies are required to be'. Who abolished it? It was the Howard government after putting the budget back on a sound footing. (Time expired)

Senator EDWARDS (South Australia) (14:09): Mr President, I ask a supplementary question. Will the minister inform the Senate why we need to repair the budget?

Senator CORMANN (Western Australia—Minister for Finance) (14:10): If we want to protect our living standards, if we want to build stronger opportunity for the future and if we do not want to live at the expense of our children and grandchildren, then we need to repair the budget. I might just reflect a bit further: it was a Labor government that first ensured that the ABC was subject to the same efficiency dividend as every other taxpayer funded agency of government. It was the coalition in 1997-98, when John Howard and Peter Costello put the plan in place that restored our public finances, that exempted the ABC from the efficiency
dividend. But under Senator Wong agencies right across government—in health, in education, you name it—were all subject to an efficiency dividend. I never ever heard Senator Wong say that imposing an efficiency dividend was tantamount to a cut. You are changing your arguments to suit yourselves. (Time expired)

Senator EDWARDS (South Australia) (14:11): Mr President, I ask a further supplementary question.

Senator Wong interjecting—

The PRESIDENT: Order on my left!

Honourable senators interjecting—

The PRESIDENT: Order on my left and my right!

Senator EDWARDS: Can the minister apprise the Senate of any alternative views on the need for the budget repair?

Senator CORMANN (Western Australia—Minister for Finance) (14:11): What we know from Mr Shorten is that he has promised to deliver a budget surplus more quickly than the coalition. Having been a senior member of the team that created the mess that we are currently dealing with and opposing most of the savings that we have put forward, he is not even able to get Labor to support Labor's own promised savings to bring the budget back to surplus sooner than the coalition. We want to see how he is going to do that. Where is he going to cut more deeply? Where is he going to increase taxes in order to get there?

And then we have this from Mr Shorten's press conference on the weekend:

One bit of good news about Australian politics is that Labor has been consistent in what it stands for. Ha, ha, ha, ha—as if! Is that the Labor Party that said that we should not provide a subsidy to companies earning more than $20 billion a year?

Opposition senators interjecting—

The PRESIDENT: Order on my left!

Senator CORMANN: You are now opposed to that. You used to say— (Time expired)

Australian Broadcasting Corporation

Senator WONG (South Australia—Leader of the Opposition in the Senate) (14:12): My question is to the Minister representing the Prime Minister, Senator Abetz. Can the minister confirm that Adelaide's ABC production studios will be shut and that about 150 South Australians will lose their jobs because Mr Abbott has broken his pre-election promise that there would be no cuts to the ABC?

Senator ABETZ (Tasmania—Leader of the Government in the Senate, Minister Assisting the Prime Minister for the Public Service and Minister for Employment) (14:13): As I indicated in my answer to Senator Urquhart, these matters are for the ABC board and managing director to determine. I made some comments in relation to the question asked by Senator Urquhart inviting ABC management to have a look at areas other than regional areas. I am delighted to inform the honourable senator that a former Labor premier of South Australia and ABC board member from 1994 to 1999 said:
Instead of looking at what can be cut "out there" and brought back to Sydney Central, it should be looking the other way. What can be outsourced to regional offices with capacity, more efficiently, cheaply and with real commitment to local production and capacity?

Instead of looking at what can be cut "out there" and brought back to Sydney Central, it should be looking the other way. What can be outsourced to regional offices with capacity, more efficiently, cheaply and with real commitment to local production and capacity?

We endorse the views of the former Labor Premier of Senator Wong's home state of South Australia in relation to his approach to the ABC when he was a member of the ABC Board.

I am very comforted by the fact that the comments I made just a few moments ago were in fact echoing those views of a former Labor Premier of South Australia—Senator Wong's own home state. Instead of running this scare campaign from Gladstone to Adelaide—and, undoubtedly, Hobart will come up and all sorts of places—we suggest the ABC and the Labor Party should follow the advice of that former Labor Premier, Mr Bannon, and have a look at central headquarters in Ultimo rather than in regional centres.

Senator WONG (South Australia—Leader of the Opposition in the Senate) (14:15): Mr President, I ask a supplementary question: can the minister further confirm that 7.30 SA and other state based 7.30 Reports around Australia will be axed alongside local sports coverage, because this Prime Minister broke his election promise that there would be no cuts to the ABC?

Senator ABETZ (Tasmania—Leader of the Government in the Senate, Minister Assisting the Prime Minister for the Public Service and Minister for Employment) (14:16): Yet again, I remind Senator Wong of the answer that I gave previously to Senator Urquhart and to Senator Wong: these are matters for ABC management to decide for themselves.

I note that, rather than complaining, there are some proactive members on our side of politics, like the member for Sturt, who has started a petition asking people to preserve The 7.30 Report in South Australia. I would invite Senator Wong to sign it and join us, along with Mr John Bannon, to invite the ABC to make the cuts in Ultimo, rather than in regional centres right around the nation.

Senator WONG (South Australia—Leader of the Opposition in the Senate) (14:16): Mr President, I ask a further supplementary question: has the minister signed Mr Pyne's petition criticising the government's ABC cuts in South Australia or does he know that this is just lip-service by a desperate cabinet minister who cannot or will not stand up for his own state in the cabinet room? Minister, is Mr Pyne a hypocrite or just ineffective?

Senator ABETZ (Tasmania—Leader of the Government in the Senate, Minister Assisting the Prime Minister for the Public Service and Minister for Employment) (14:17): The good news is that Mr Pyne is neither. He is superbly effective, and that is why the Labor Party dislike him. The reason is that he is so consistent is the reason why he continually gets re-elected in the seat of Sturt time and time again, despite the bucketloads of union money that the Australian Labor Party throw at him each and every election. He continually gets re-elected, because he is seen by his electorate not as a hypocrite but as a very effective local member.

What I can say to Senator Wong is that Mr Pyne is looking after his electorate and has joined with Mr John Bannon, a former Labor Premier, myself and others to ask the ABC to
recognise what is in their charter, look after the regional areas and see whether savings can actually be made in Ultimo. *(Time expired)*

**Australian Building and Construction Commission**

*Senator McKENZIE (Victoria) (14:18):* My question is to the Minister for Employment, Senator Abetz, and relates to the proposed compulsory examination powers of a re-established Australian Building and Construction Commission. Can the minister advise the Senate of the proposed legislative safeguards for persons examined by the ABCC?

*Senator ABETZ (Tasmania—Leader of the Government in the Senate, Minister Assisting the Prime Minister for the Public Service and Minister for Employment) (14:18):* I thank Senator McKenzie for her question and recognise her longstanding interest in this issue of restoring the rule of law to our construction sites.

The proposed compulsory examination powers of a re-established Australian Building and Construction Commission are not at all novel; in fact, they already exist under Labor's own Fair Work Building Industry Inspectorate—they actually voted for them, believe it or not. That was established by the former Labor government. These sorts of powers are vested in APRA, ASIC, Centrelink, Medicare and the Australian Taxation Office.

Witnesses summoned by the ATO have no specified privilege against self-incrimination, no specified right to legal representation and no specified right of review. Witnesses to the ABCC do. The government has included within its legislation to re-establish the ABCC protections for witnesses that far exceed those afforded to witnesses before the tax office.

Witnesses invited to assist the ABCC will be expressly entitled to legal representation. Any evidence given in an interview cannot be used against that person in proceedings. Unlike the ATO, the ABCC will be required to issue written notice at least 14 days in advance, setting out the time, place and manner in which the meeting will take place, including reimbursement of expenses.

Witnesses invited to assist the ABCC will enjoy the strongest regulatory protections available under Australian law—stronger than any other Commonwealth agency. So one wonders why the Australian Labor Party and Mr Andrews in Victoria are so implacably opposed to the reintroduction of the ABCC. *(Time expired)*

*Senator McKENZIE (Victoria) (14:21):* Mr President, I ask a supplementary question—it is a very good question, Minister: can the minister inform the Senate of any other examination processes in the building industry?

*Senator Kim Carr: What a wonderful Dorothy?*

*Senator ABETZ (Tasmania—Leader of the Government in the Senate, Minister Assisting the Prime Minister for the Public Service and Minister for Employment) (14:21):* Senator Carr might like to listen to this: earlier this month, the national secretary of the CFMEU issued a so-called summons to a union whistleblower Brian Miller, to attend a secret meeting which took place just last week at CFMEU headquarters.

Mr Noonan issued a charge sheet which purported to charge Mr Miller with gross misbehaviour for which the union sought to expel him. But what is this gross misbehaviour alleged by Mr Noonan? I read from the charge sheet: 'On 16 October, Mr Miller appeared on
the 7.30 program and he exposed the culture of coercion, corruption and criminality within the CFMEU.’

Honourable senators interjecting—

Senator ABETZ: No, the first bit. It is the height of hypocrisy for the CFMEU to campaign against the government's legislation, which will provide the strongest safeguards—(Time expired)

Senator MCKENZIE (Victoria) (14:22): Mr President, I ask a further supplementary question. Will the minister advise the Senate how the coercive examination processes of the CFMEU compare with the proposed powers of the ABCC?

Senator ABETZ (Tasmania—Leader of the Government in the Senate, Minister Assisting the Prime Minister for the Public Service and Minister for Employment) (14:22): Yes I can. Under the CFMEU rules Mr Miller does not receive 14 days notice or any conduct money. The summons does not give him the right to have a lawyer present, and he does not have the right to a transcript or video recording of the interview. The interview is not subject to oversight by the Commonwealth ombudsman. All of these rights actually do apply to participants with the ABCC. The only right of appeal under the CFMEU's rules is to the union's national executive, which includes Mr Dave Noonan, who actually signed the charge sheet. So the person who made the charge will sit on the appeal along with some others, who include Brian Parker and, of course, Mick Gatto’s and Daniel Andrews’s very good mate: none other than John Setka. They would be the people running Victoria should they elect Mr Andrews on the weekend. (Time expired)

Australian Broadcasting Corporation

Senator LUDLAM (Western Australia) (14:23): My question is to Senator Abetz, representing the Prime Minister today. Will the government apologise to the Australian people and the 400 staff of our national broadcaster who have lost their jobs for violating a clear and unambiguous pre-election commitment that there would be no cuts to the ABC and SBS?

Senator ABETZ (Tasmania—Leader of the Government in the Senate, Minister Assisting the Prime Minister for the Public Service and Minister for Employment) (14:24): Two very quick answers: no and, secondly, nobody has lost their job.

Senator LUDLAM (Western Australia) (14:24): Mr President, I ask a supplementary question. Minister, item 50 of the Institute of Public Affairs's policy hit list states that the government should break up the ABC and put out to tender each individual function, and item 51 of the same hit list says privatise SBS. Can the minister inform the Senate as to whether these unforgivable cuts announced today are simply phase 1 of a broader attack on Australia's treasured national broadcasters?

Senator ABETZ (Tasmania—Leader of the Government in the Senate, Minister Assisting the Prime Minister for the Public Service and Minister for Employment) (14:25): Senator Ludlam is a lot better informed about the agenda of the Institute of Public Affairs than I am, and therefore I am willing to accept that items 50 and 51 of the IPA's agenda might include that in it. I confirm to Senator Ludlam and, indeed, all Australians that this is a government that will not be dictated to by any agenda other than the best interests of the Australian people and the nation. That is what motivates us. Let's make no mistake: those people in this chamber
that continually clamour for extra money today are the same people that are seeking to block our economic reforms that would actually allow the pie to grow and allow us the capacity to pay off the huge debt that exists. We do have a financial problem and we are seeking to fix it—no thanks to the Greens.

Senator LUDLAM (Western Australia) (14:26): Political satire is nearly dead, isn’t it! Mr President, I ask a further supplementary question. Senator Abetz, do you concede that, if this government had not spent its first 12 months in office cutting taxes and further undermining Australia’s budget position, these cuts to the ABC would be completely unnecessary.

Senator ABETZ (Tasmania—Leader of the Government in the Senate, Minister Assisting the Prime Minister for the Public Service and Minister for Employment) (14:26): Absolutely not, and I think what it shows is the complete divide—thankfully—between the thinking of the Australian Greens and those of us in the coalition. No country has ever taxed itself back into wealth. We know that the carbon tax was destroying family budgets. We know it was destroying the manufacturing sector. We know it was destroying the agriculture sector. We know the impact on the tourism sector. The carbon tax which we finally got rid of—no thanks to the Greens, might I add—was such a destructive and toxic tax that it was having an impact on every single Australian, and by removing it we have liberated Australian manufacturing, liberated Australian agriculture, liberated household budgets from an impost which, might I add, was based on the no carbon tax promise of the Labor Party. (Time expired)

Higher Education

Senator RUSTON (South Australia—Deputy Government Whip in the Senate) (14:27): My question is to the Minister for Human Services, Senator Payne, representing the Minister for Education. Can the minister inform the Senate why Universities Australia is urging the Senate to pass the government’s higher education reforms with amendment?

Senator PAYNE (New South Wales—Minister for Human Services) (14:28): I thank Senator Ruston very much for the question about the open letter that was published today from Universities Australia. All Senators will have seen that, I am sure. What Universities Australia have indicated is that they are urging the Senate to legislate the higher education reforms with amendments. They are the peak body representing Australia’s universities and they say the reforms will provide the new approach to funding that is needed to maintain the quality of education that students expect and that without the reforms Australia risks being left behind. They also have television advertisements that say that, with changes, the higher education reform bill can actually give us the sustainable future that Australian universities need. What their CEO, Belinda Robinson, has said is:

It is not possible for universities to continue to deliver the quality that students and parents expect under a system that remains both financially unsustainable and uncertain.

They in fact call on the Senate to amend and to pass the legislation.

In fact, all of the higher education peak bodies in this country support the government’s proposed reforms, with amendments—

Senator Kim Carr: They do not!

The PRESIDENT: Order on my left.

Senator PAYNE: with amendments. That includes TAFE Directors Australia, and COPHE and ACPET from the private sector. It includes the Regional Universities Network. It
includes Innovative Research Universities, the Australian Technology Network and the Group of Eight. They know that these reforms have huge benefits for their students. What the reforms mean is that present and future generations of students will actually have access to the best higher education possible in Australia. The quality of Australian higher education, the quality of the degrees offered, depends on these reforms. As well as making possible an internationally competitive higher education that students rightly expect and making this sustainable for the long-term future, of course there will be many other benefits for students. 

(Time expired)

Senator RUSTON (South Australia—Deputy Government Whip in the Senate) (14:30): Mr President, I ask a supplementary question. Can the minister apprise the Senate of other benefits for students that will come from the government's higher education reforms?

Senator Kim Carr: Like crippling debt?

Senator PAYNE (New South Wales—Minister for Human Services) (14:30): Senator Carr should stop misleading the Senate, Mr President. No student has to pay a cent up-front, as is the case now, and no-one needs to repay anything until they are earning over $50,000 a year.

Opposition senators interjecting—

The PRESIDENT: Order on my left.

Senator PAYNE: The other benefits will include the extensive Commonwealth Scholarships scheme. That will be the largest scholarship support in Australia's history, and those opposite simply do not care about that. For the first time ever, the Commonwealth will be supporting all Australian undergraduate students in all registered higher education institutions, not just in bachelor studies but in diplomas as well—all students in those courses. And tens of thousands of the sorts of students from non-university higher education providers—they were here in Canberra last week; they visited Parliament House—will have lower fees because they will have Commonwealth support. They will not have to pay the loan fees of 20 and 25 per cent that are currently applied to students studying under— (Time expired)

Senator RUSTON (South Australia—Deputy Government Whip in the Senate) (14:31): Mr President, I ask a further supplementary question. Will the minister advise the Senate of the impact on students, particularly disadvantaged students, if these reforms are not passed?

Senator PAYNE (New South Wales—Minister for Human Services) (14:31): This is actually a very serious question from Senator Ruston, because, if these reforms are not passed—if the opponents of the reforms continue to stand in the way of what all the higher education peak bodies agree is essential for a healthy future for higher education—they are going to be standing in the way of tens of thousands of disadvantaged students who could, for example, benefit from the Commonwealth Scholarships. They are standing in the way of 80,000 students who should have Commonwealth support for their studies. They are standing in the way of another 80,000 students who should not have to pay the unfair VET FEE-HELP loan fee. They are standing in the way of another 50,000 students who should not have to pay the unfair FEE-HELP loan fee. They are standing in the way of 1,500 jobs that depend on the National Collaborative Research Infrastructure Strategy. They are standing in the way of the funding of the mid-career Future Fellowships for researchers. It absolutely beggars the
imagination that those opposite are not interested in ensuring the future of higher education—

(Time expired)

Australian Broadcasting Corporation

Senator XENOPHON (South Australia) (14:32): My question is to the Leader of the Government in the Senate, representing the Prime Minister, in respect of the ABC cuts. Can the minister acknowledge that the latest cuts to South Australia are a continuation of the drift of staff numbers, editorial control and content production to Sydney in the past decade, as has been widely reported, with the sharpest cut in South Australia from eight per cent to 6.9 per cent of staff numbers? What will the government do to reverse this trend not only in South Australia but in Western Australia, Tasmania and Queensland, as well as the regions? Will the government consider quarantining ABC funding cuts for a regional programming initiative as initiated by the Howard government in 2001?

Senator ABETZ (Tasmania—Leader of the Government in the Senate, Minister Assisting the Prime Minister for the Public Service and Minister for Employment) (14:33): I share Senator Xenophon's concerns in relation to some of the directions—

Senator Wong interjecting—

The PRESIDENT: Order on my left.

Senator ABETZ: Mr President, you get this non-stop barrage of interjections from the Leader of the Opposition—even on a question by Senator Xenophon.

Opposition senators interjecting—

The PRESIDENT: On my left!

Senator ABETZ: I really do ask her to desist, out of courtesy not to me but to Senator Xenophon. This is something that the management of the ABC has been considering for some six years and, regrettably, they are seeking to blame the decision on the government when they know full well that they have been moving their television model in this direction for some six years. That is why I find it particularly disappointing that, having moved in this direction now for some time, they seek to blame the government's—

Senator Cormann interjecting—

The PRESIDENT: On my right.

Senator ABETZ: savings mechanisms for these outcomes.

The ABC did a review of television production in 2008 when they first raised the prospect of changing their internal production model. The ABC made public statements in all Senate estimates and at Senate inquiries that, since then, they were reviewing TV production in my home state of Tasmania and indeed in South Australia. So these things were on the drawing board well and truly before the announcements by Minister Turnbull, and that is why it is somewhat distasteful when these two things are brought together and are sought to be blamed on the government's savings mechanisms in circumstances where we simply have to get the budget back under control.

Senator XENOPHON (South Australia) (14:35): Mr President, I ask a supplementary question. Given the strong statement of support from the ABC Board for Managing Director Mr Scott released concurrently with the announcement of the cuts today, does the government have unequivocal confidence in the oversight being provided by the board—particularly in the
context of its impact on South Australia, Queensland, Tasmania and Western Australia and its regional impact?

Senator ABETZ (Tasmania—Leader of the Government in the Senate, Minister Assisting the Prime Minister for the Public Service and Minister for Employment) (14:36): I think I have got to be exceptionally careful here because those who remember me in my days in opposition and the comments I made about the ABC might expect me to hold forth now. I think it would be better for me in all the circumstances, about confidence et cetera in the board, to direct those questions to the minister to see whether he wants to add anything. I assume that he would. The mechanism for the ABC is that it is constructed by a board and a managing director. They have the responsibility under the legislation, but it would be fair to say that some of the direction taken in recent times has left me, at least, somewhat nonplussed, but I will see what the attitude of the minister is.

Senator XENOPHON (South Australia) (14:36): Mr President, I ask a further supplementary question. Does the government consider that the cuts announced today meet the expectations set out by the ABC charter in the legislation? If not, will the government support, in broad principle, a move to revise the charter to explicitly write in requirements to generate content, news and current affairs coverage by and for the states, including regional Australia?

Senator ABETZ (Tasmania—Leader of the Government in the Senate, Minister Assisting the Prime Minister for the Public Service and Minister for Employment) (14:37): I think the senator makes a very valid point, and from my cursory reading of the charter I would have thought that the ABC should be doing exactly that. The question seems to be the will of Ultimo or central headquarters in Sydney as to how much they pursue that aspect of their charter. I for one would encourage them to pursue that rather than continuing their expenditure at Ultimo, in the middle of Sydney. I would encourage them—like Mr Bannon, the former Labor Premier, not from my side of politics, asked—to look to the regions to maintain and sustain them rather than continually looking after Sydney central headquarters.

Rural and Regional Health Services

Senator REYNOLDS (Western Australia) (14:38): My question is to the Assistant Minister for Health, Senator Nash. Can the minister update the Senate on what the government is doing to encourage doctors to practise in rural and regional Australia following her recent announcement at the Rural Medicine Australia 2014 conference?

Senator NASH (New South Wales—Deputy Leader of The Nationals in the Senate and Assistant Minister for Health) (14:38): I thank Senator Reynolds for her question. I have been listening to those in the health sector for quite some time about the current system for workforce programs. I am very pleased to advise the Senate that it is this government, unlike the previous Labor government, that is working towards fixing those issues and making sure we get the right doctors with the right skills to the right places. The first thing we are going to do is fix the current system for workforce programs, the ASGC-RA system—the failed system under the Labor government. We are replacing that with the modified Monash model. This will ensure that we can get much greater detail into consideration of those areas where we are trying to encourage our doctors to go. That system will allow that greater detail to be utilised.
I will be putting that towards first the GP Rural Incentives Program, appointing an expert panel to consult with the sector to ensure that we make the changes right—that they most effectively and appropriately deliver what we are trying to do, and that is getting those doctors to those areas where we need them most. We are also updating the current district of workforce shortage system. This is an outdated system that has been using old figures for far too long. It will be updated to better reflect, on the ground, how those numbers look and how they work out in those regional areas. We will also be expanding the Bonded Medical Places program to cover not only areas of district of workforce shortage in terms of return of service but also towns of under 15,000 people. We know that all of these are going to contribute greatly to improving the ability to encourage our doctors to areas where we need them most, particularly out in those smaller rural and regional areas.

Senator REYNOLDS (Western Australia) (14:40): Mr President, I ask a supplementary question. Will the minister advise the Senate of how this announcement has been received by rural and regional doctors?

Senator NASH (New South Wales—Deputy Leader of The Nationals in the Senate and Assistant Minister for Health) (14:40): I am pleased to advise the Senate that these long-overdue changes to rural health have been very well received. For example, the Rural Doctors Association of Australia said:

Rural doctors are celebrating changes announced today by the Federal Government that will result in more doctors and better access to healthcare for the bush.

Professor Richard Murray, the immediate past president of ACRRM, said:

This is an example of good public policy in action. It will make it easier to attract doctors to where they are most needed in communities across rural and remote Australia.

And the AMA president, Associate Professor Brian Owler, said:

We congratulate [the government] for engaging with the medical profession, hearing and understanding the concerns of country doctors and their patients, and delivering a positive outcome.

That stands in stark contrast to what those in the Rural Doctors Association thought of the previous, Labor, government's policy approach, describing the ASGC-RA as an abomination of a scheme. And: 'Putting a suburb of Hobart, Wagga Wagga and Gundagai in the same section is a joke', Dr Mara said, pointing out the failed policy of the previous government.

Senator REYNOLDS (Western Australia) (14:41): Mr President, I ask a further supplementary question. Can the minister advise the Senate of what else the government is doing to improve health in rural and regional areas?

Senator NASH (New South Wales—Deputy Leader of The Nationals in the Senate and Assistant Minister for Health) (14:42): In addition to these very important changes to the health workforce reforms, I will remind the Senate about our recent budget initiatives: $238.4 million over five years to double the Practice Incentives Program Teaching Payment for general practices that provide teaching opportunities to medical students; $52½ for a minimum of 175 grants for existing general practices in rural and regional settings to provide additional space for training, teaching; and $13.4 million over three years to support around 500 additional scholarships targeted to areas of workforce shortage; and an additional $6 million to current funding of the Royal Flying Doctor Service for essential services in rural and remote Australia. When it comes to improving rural health outcomes it is this
government, unlike the previous, Labor, government, that is going to ensure that we get the right doctors with the right skills to the right places.

Defence Procurement

Senator GALLACHER (South Australia) (14:43): My question is to the Minister for Defence, Senator Johnston. Can the minister confirm that the Prime Minister met with the French President during his recent trip to Australia and discussed Australia's future submarine project? And can the minister also confirm that the Prime Minister told the French President that Australia's future submarines would be built by Japan?

Senator JOHNSTON (Western Australia—Minister for Defence) (14:43): I thank Senator Gallacher for his question. I was not with the Prime Minister and the President all the time. However, DCNS, a naval architect and constructor established in 1631 in France, is a very capable builder of submarines. Indeed, they build a 14,000-tonne submarine—

Senator Conroy interjecting—

The PRESIDENT: Senator Conroy!

Senator JOHNSTON: and they build a number of diesel electric submarines, predominantly exported into our region, into India and Malaysia. French sonars are par excellence. Accordingly, it would be very surprising if my Prime Minister having Thales, one of our biggest Defence exporters of sonar components, from Rydalmere in Sydney, if they did not discuss submarines and submarine construction. The point is, we have another of our companies here which have a connection with France—

Opposition senators interjecting—

The PRESIDENT: Order! Senator Conroy! Pause the clock. Minister.

Senator JOHNSTON: So it would be very logical and proper if the Prime Minister, in discussing maritime and French-Australian relations, was to discuss submarine sonars and the very fact that we had a submarine program to be unfolded in Australia in the next several years. I am sure he would also have said, 'We're cleaning up one hell of a mess left to us by the Labor Party.' They talk about the ABC cuts—4.5 per cent over five years. They took 10 per cent out of the Defence budget in one year. (Time expired)

Senator GALLACHER (South Australia) (14:46): Mr President, I ask a supplementary question. I refer the minister to a report in the Saturday paper that during a meeting between the Prime Minister, the US President and the Japanese Prime Minister at the recent East Asia Summit, it was agreed, 'Japan and the US would help Australia with its new submarines—that is, by fitting US combat systems to Japan's Sorya class submarines.' Is the minister aware of this commitment?

Senator JOHNSTON (Western Australia—Minister for Defence) (14:46): It may be surprising to know that I was not there. So while I know that you would be fascinated to know what the discussion was between the President of the United States, the Prime Minister of Japan and the Prime Minister of Australia, it was a private discussion and I am sure to canvassed many important regional security issues. I cannot help you, Senator, because I was not there. Indeed, if you had read the article properly and done any homework at all, you would have known I was not there and could not give you an appropriate answer.
Mr President, as I was saying, concerning the confected outrage of this side on Defence projects, they took 10 per cent of the Defence budget in one year. The cuts to the ABC are 4.5 per cent over five years. They took 10 per cent of the Defence budget in one year—a disgrace.  (Time expired)

Senator GALLACHER (South Australia) (14:47):  Mr President, I ask a further supplementary question. Can the minister explain exactly who is running Australia's biggest-ever Defence procurement program—staff in the Prime Minister's office or the Minister for Defence? Is it not time the minister took control of his portfolio and announced a competitive tender so that all Australians can be confident we are getting the best submarine at the best price?

Senator JOHNSTON (Western Australia—Minister for Defence) (14:48):  We are running this program, but if you are concerned it is taking some time, let me tell you in your shadow minister's own words why it is taking time. He told the submarine institute recently something I would like to highlight: '... significant work done on the project by Labor. We put $214 million on the table'. Of that $214 million put on the table in 2009, only $60 million as been spent. Oh dear! He then went on to say, 'We ruled out a MOTS.' They simply suspended the MOTS. These were the words used. If you want to talk about running a program for six years, you guys looked busy with lots of words and to did nothing—not a contract, not even an obligation to South Australia.  (Time expired)

Forestry

Senator BUSHBY (Tasmania—Chief Government Whip in the Senate) (14:49):  My question is to the Minister for Employment, Senator Abetz, representing the Minister for Agriculture. Can the minister inform the Senate on the recovery in the forestry sector since the coalition government was elected?

Opposition senators interjecting—

The PRESIDENT: Order!

Senator Abetz: I cannot hear the question.

The PRESIDENT: And nor could it. Senator Bushby, I ask you to repeat the question. I did not hear it.

Senator BUSHBY: My question is to the Minister for Employment, Senator Abetz, representing the Minister for Agriculture. Can the minister inform the Senate on the recovery in the forestry sector since the coalition government was elected?

Senator ABETZ (Tasmania—Leader of the Government in the Senate, Minister Assisting the Prime Minister for the Public Service and Minister for Employment) (14:50):  I am delighted to inform Senator Bushby and the Senate that there is real good news on the forestry employment front. Total employment the forestry sector, which includes forestry, wood pulp and paper manufacturing, declined from 76,000 to 61,000 during the stewardship of those opposite. Now onto Senator Colbeck's stewardship, employment has rebounded to 70,500. That is a substantial increase of 9,100 jobs or nearly 15 per cent over the previous year. This is testament to the recovery with in the forestry sector, which comprises upwards of five per cent of the sales and service income of total manufacturing industry in this country. Under the previous government, the contribution of the forestry sector to the GDP declined from 0.7 to 0.45, with most of the decline in sawmilling and further manufacturing. These are the areas
that have recovered the most in the past 12 months. There has been a 20 per cent increase in exports of sawn wood and a 21 per cent increase of wood based panels. Paper and paperboard exports have increased from $700 to 850 million worth. Packaging and industrial paper exports have increased by 15.2 per cent. These wooden paper-based exports are helping to provide a brighter future for regional towns right around Australia, especially in Victoria and in Tasmania. Despite the best efforts of the Greens saying that forestry is a dying sector, it has found a rebirth under this government, with 9,000 extra jobs in the last 12 months. (Time expired)

Senator BUSHBY (Tasmania—Chief Government Whip in the Senate) (14:52): Mr President, I ask a supplementary question. Can the minister advise the Senate of recent developments in relation to the woodchip export industry?

Senator ABETZ (Tasmania—Leader of the Government in the Senate, Minister Assisting the Prime Minister for the Public Service and Minister for Employment) (14:52): Similarly, we were told that the woodchip sector was a dying sector. The value of woodchip exports increased by 25.7 per cent from 2012-13 to 2013-14—a huge increase. The value of hardwood woodchip exports increased by 32.9 per cent last year. The market for woodchips has shifted from Japan to China and now India is emerging as a potential market, which will further impact on the demand for these products, especially from good quality suppliers of woodchips, which Australia has quite rightly earned a reputation for being. Despite the best efforts of the Australian Greens and their fellow travellers to trash the reputation of Australia's forest industry, and the woodchip sector in particular, we have seen a mighty growth in their exports. (Time expired)

Senator BUSHBY (Tasmania—Chief Government Whip in the Senate) (14:53): Mr President, I ask a further supplementary question. Will the minister inform the Senate whether there has been an increase in the number of dwelling commencements and what impact this has had on the forestry sector?

Senator ABETZ (Tasmania—Leader of the Government in the Senate, Minister Assisting the Prime Minister for the Public Service and Minister for Employment) (14:53): Senator Bushby is right to make a connection between dwelling commencements and the viability of the forestry sector. The number of dwelling commencements is an important indicator for wood product consumption. Dwelling commencements in 2013-14 increased by 11.4 per cent. Victoria, might I add, under the stewardship of Premier Denis Napthine and the coalition government, recorded the largest number of annual dwelling commencements in Australia over the past five years. That is what happens with good government, like Victoria is experiencing at the moment. You see the number of dwelling approvals increase, which then boosts employment in the forestry sector. The great Australian dream of home ownership is still alive in Victoria because of the policies of Senator Colbeck and Premier Napthine. (Time expired)

Australian Defence Force

Senator CONROY (Victoria—Deputy Leader of the Opposition in the Senate) (14:54): My question is to Senator Johnston, the Minister for Defence. I refer the minister to the government's unfair pay deal for Australian Defence Force personnel that cuts their real pay and conditions and an article on the news.com.au website on 6 November where an unnamed soldier says:
… the government that I have sworn to protect and serve, and that up to this point have been enormously proud to do so, has signed off on a deal that is essentially a kick in the teeth to every Soldier, Airmen, & Sailor.

Will the minister listen to this sailor and ensure that the government reconsiders this despicable decision?

Senator JOHNSTON (Western Australia—Minister for Defence) (14:55): Does anybody seriously believe that we would want to reduce the terms and conditions of soldiers?

Senator Conroy: You have! Yes, we believe it!

The PRESIDENT: Order!

Senator Conroy: About 50,000 of our service personnel believe it.

Senator JOHNSTON: The only reason—if I can get a word in edgeways, because the next bit they do not want to hear—we are in the position we are in—

Senator Conroy: A 'no excuse' government!

The PRESIDENT: Senator Conroy, you have asked your question.

Senator JOHNSTON: is because of the negligent mismanagement of the opposition when they were in government. They were absolutely hopeless in managing the chequebook and the budget, taking $16 billion out of Defence. Not only did they put our national security in jeopardy but, of course, right across the board government departments were overpaid. We were left in a position where we now have to repair the budget. This is the legacy—

Senator Kim Carr: Did you say they are overpaid? Did you say our soldiers are overpaid?

The PRESIDENT: Senator Carr!

Senator JOHNSTON: I might say, Mr President, in every other part of Australia when the going gets tough people tighten their belt. We are saying it is only fair, with $667 billion coming over the horizon in debt, that Canberra has to tighten its belt, because this is the legacy that Labor has left us. This is the no wriggle room—

Senator Kim Carr interjecting—

The PRESIDENT: Senator Carr!

Senator JOHNSTON: Do we want to bequeath to our grandchildren and our great-grandchildren the level of debt that you guys just ran up on a credit card? And you could not care less.

Senator Lines: Talk about your dirty deals!

The PRESIDENT: Senator Lines!

Senator JOHNSTON: You are bellyaching about 4.5 per cent of ABC cuts over five years when you took 10 per cent out of the Defence budget in just one year, which was more than $2½ billion—that is the sort of management that we came to expect from you. That is why the Australian people gave you a fair dinkum boot up the backside at the last election.

Senator CONROY (Victoria—Deputy Leader of the Opposition in the Senate) (14:57): Mr President, I ask a supplementary question. I refer the minister to the same article and, again, I quote the unnamed soldier, who said:

I am an Australian Soldier and, for the first time in eleven years, I am thoroughly disgusted to be one.
This is not my fight, it's the fight of every serving member …

Minister, why do ADF personnel have to fight this government for fair pay and conditions?

Senator JOHNSTON (Western Australia—Minister for Defence) (14:58): Senator Conroy—may I say through you, Mr President—where were you when you delivered two pay rises below the rate of inflation? What were you saying then? You are not even blushing. You are not even embarrassed. You delivered two pay rises below the rate of inflation. And you just sat on your hands—

The PRESIDENT: To the chair, Minister.

Senator JOHNSTON: when you delayed 42 programs in the Defence Capability Plan—some of them—

Senator Conroy: Oh, back to that!

Senator JOHNSTON: Back to that, because some of them involved force protection of soldiers. Where were you then?

Senator Conroy interjecting—

The PRESIDENT: Senator Conroy, you have asked your question.

Senator JOHNSTON: where were you then when you had—and I note you have some people from ASC—a frigate program $350 million over budget and, with submarines, nothing happening at all over six years? Where were you then? All you could do was take money out of the Defence portfolio, and we are repairing that damage. You should be very embarrassed about your performance in government.

Senator CONROY (Victoria—Deputy Leader of the Opposition in the Senate) (14:59): Mr President, I ask a further supplementary question. I refer the minister to the government's decision to cut the members with dependants food allowance for ADF personnel, worth $4,900 a year, replacing it with a one-off payment of $385 a year. How is it in any way justified for the government to leave some ADF members and their families more than $4,500 worse off a year?

Senator JOHNSTON (Western Australia—Minister for Defence) (14:59): They are not worse off. They are getting a 4.5 per cent rise over three years. Some of these adjustments are because of the government's template demanding productivity. That is what—

Senator Conroy interjecting—

Senator JOHNSTON: If you are interested in the answer, that is what your Prime Minister said in her administrative order in May 2013. So you set the parameters for productivity for Public Service pay rises. What you are trying to say is that we are the ogres here. You are the ones who actually delivered two pay rises below the rate of inflation. Of course, you do not want to hear me say that to you because everything you throw at us over here when we are trying to legitimately repair your mess, you did in spades—$16 billion out of the portfolio, leaving defence completely at odds to try to run its business. (Time expired)

Senator Abetz: I ask that further questions be placed on the Notice Paper.
QUESTIONS WITHOUT NOTICE: TAKE NOTE OF ANSWERS
Australian Broadcasting Corporation

Senator URQUHART (Tasmania—Deputy Opposition Whip in the Senate) (15:00): I move:

That the Senate take note of the answers given by the Minister for Employment (Senator Abetz) to questions without notice asked by Senator Urquhart, the Leader of the Opposition in the Senate (Senator Wong) and Senators Ludlam and Xenophon today relating to funding for the Australian Broadcasting Corporation.

Here we are today where we have around 400, maybe more, jobs to go out of the ABC. We asked the minister questions about the broken promise of this Prime Minister Abbott that is now directly responsible for over 400 job cuts to the ABC. What did we get from him? We got that it is a decision of the ABC. It is absolutely outrageous. We got no answers about jobs. We got no compassion from the minister who is the Minister for Employment, no compassion about the 400 people who are going to lose their jobs over the next couple of years, because his government gave the false story the day before the election when the now Prime Minister of Australia said to the Australian people, 'There will be no cuts to the ABC.'

Here we are today with 400-plus jobs gone from the ABC. That is what it means. We have a Prime Minister who told Australia a pack of lies. There is no other word for it. He lied to the Australian people.

The PRESIDENT: Senator Urquhart, you have to withdraw that last remark.

Senator URQUHART: I withdraw that, but he deceived the Australian people. He deceived the Australian people prior to the election when he said there would be no cuts to the ABC. Even his minister, Minister Turnbull, on 7.30 the other night could not even support him. Malcolm Turnbull said:

Well—well, look, you know, I mean, I've defended the Prime Minister on this today and earlier in the week. I think you've got to take his comments, which—look, I mean, what he said, he said, and, you know, it's there, it's on the record. But you've got to take that in the context. What context do you take when he said there will be no cuts? How can that be taken out of context when as opposition leader—one day, the Prime Minister the next day—he stood up and told the Australian voters that there will be not cuts to the ABC? Then, the very next day when he becomes Prime Minister, he has obviously changed his mind. His minister is saying that you have to put it in context. I do not know what context you can take that in. If they say there will be no cuts to the ABC, that is what people believe. They believe that is what he will do. But now we have a situation where there are 400 jobs going.

Then at Senate estimates last week we had members of the National Party raising their voices at the Managing Director of the ABC, Mr Mark Scott, demanding that they provide some comfort for regional Australia, that they not lose some of their regional services. This is your government. Your government are the ones that have introduced the cuts to the ABC. It is interesting to note that in questioning from Senator Conroy to Senator Johnston, Senator Johnston talked about cuts to the ABC—

Senator Conroy: Three times.

Senator URQUHART: Three times he said 'cuts to the ABC'. So even Minister Johnston on that side has accepted there are cuts to the ABC. He put it down. He said it in Hansard.
The questions that I asked Senator Abetz were about the 400 jobs, but there was no compassion from him at all. What we heard from Senator Abetz was only, 'Nobody has lost their job.' I just cannot describe how those 400-plus-people, those workers at the ABC, would be feeling about their minister who is saying nobody has lost their job when he knows very well that those workers, 400 of them at least, are going to lose their jobs. All the Minister for Employment can say is, 'Nobody has lost their job.' Well, Minister Abetz, they will lose their jobs because of the cuts that your government has made to the ABC, cuts that Prime Minister Abbott said the day before the election would not occur—'No cuts to the ABC'.

Senator EDWARDS (South Australia) (15:06): It does give me great pleasure to rise and take note of answers by Senator Abetz on the ABC. The ABC is an organisation which has not had to provide an efficiency dividend. Anyway, why are we in this position?

   Senator Conroy interjecting—

Senator EDWARDS: Because, Senator Conroy, you presided over a period of administration in this country which was financially irresponsible and that is why we are looking for efficiency dividends. This is no different to any other organisation out there in the real world trying to compete in a competitive marketplace. Might I give some perspective for those listening to this contribution. The ABC will receive $5.2 billion over the next five years, as opposed to $5.5 billion. That will save the budget 4.6 per cent. I was not here last week, but I believe that in Senate estimates the management of SBS said that they could manage these efficiency dividends. They owned up and said: 'There will be no change in content. There will be no change in programming. We should be able to manage this.' That is what responsible management does, rather than shrilly picking out a capital city like Adelaide, my home town, and saying, 'This will be Adelaide wiped off the face of the map.' That is not what efficient management does. Efficient management looks at what it has to achieve. It looks at its content. It looks at its programs.

Senator Bilyk interjecting—

Senator EDWARDS: I do not need to take any of the interjections from the other side, Mr President—

The PRESIDENT: You do not.

Senator EDWARDS: because even some journalists who had been working in the ABC environment acknowledge the fat that can be cut from the ABC. There have been various columns. There was a column by Amanda Blair in my home state daily several days ago. There is another one this morning from Louise Evans in The Sydney Morning Herald. This is not the coalition 'Hate the ABC' team. This is people who have worked in that environment and said, 'It's as clear and plain as the nose on your face that Mr Scott has got room to move.'

Mr Scott has also had the benefit of an efficiency study that was conducted and headed up by Peter Lewis. Peter Lewis is no lightweight. Peter Lewis is a person who has worked in the media. He has worked for Seven West Media, Sydney Olympic Broadcasting, the Seven Network and the Ten Network. Nothing on the other side of this debate, on the other side of this chamber, compares to the experience that that man and the people that prepared that review have had. This man has been a CFO of a major media organisation. All such organisations are accountable to their shareholders. In the case of the ABC, the shareholders are the Australian taxpayers. The shareholders are voters and taxpayers, and they want a level
of efficiency. They do not want shrill calls. Mr Scott has had the benefit of that report. He has been able to look at that report and he has been able to identify the savings that he can make. It is up to him as to what representations he can make, but, on the face of it, you have to say there are people who have worked in the ABC, who have trod the halls and the studios of the ABC, who know that the efficiencies are there. To say that Mr Scott is going to hollow out the ABC and there are mass production costs in all these centres is somewhat hollow, because these places that he talks of are sheds and darkrooms not the size of a bedroom.

_Senator O'Neill interjecting—_

_Senator EDWARDS:_ Senator O'Neill on the other side is squawking somewhat about these issues, but I would be interested in her representation about what the ABC should not have to do or that they should remain unaccountable, unlike any other government department. *(Time expired)*

_Senator O'NEILL* (New South Wales) *(15:11)*: Today I stand also to take note of Senator Abetz's answers on questions related to the government's gutting of the ABC and the SBS, despite the Prime Minister's ironclad promise on national television on 6 September: 'There will be no cuts to the ABC or SBS.' We all know that the Prime Minister has well and truly broken that pre-election commitment. 'No cuts to the ABC; no cuts to SBS'—today the grim reality of that set of broken promises can be added to the list of many, many others unfolding before the eyes of this nation. And it is not a pretty sight.

More than 400 people, close to 10 per cent of the ABC's ongoing workforce, face potential redundancies over the coming months. It is in that sneaky space that we see this sneaky government, and the Leader of Government Business in the Senate, pretending there are no job cuts. To actually have the audacity to say here, in question time, that there are no job losses and not say the word 'today' at the end just represents the depths to which this government will go to hide the truth from the Australian people. More of Australia's trained professional workforce—in many cases quite simply extraordinarily talented individuals, with the ability to tell Australian stories—will leave their jobs, will be dismissed. There are Australian families associated with these great workers—people with mortgages, with lives in our cities and regions, people facing the chop as a result of the Prime Minister's broken promise.

Just like the forced closure of Medicare Locals, the loss of hundreds of regional jobs will have a damaging impact in the regions' economies. These regions will face enormous strain when these talented ABC professionals will be forced to move on from the regions that they love. This is a government that deceived the Australian people. It is removing the value of this set of people's incomes from those local economies. That will be felt. Do you think, Mr President, that townsships across the country—including, in Western Australia, the community of Wagin—will not miss the loss of their ABC? What about the Victorian town of Morwell and the people that are working there for the ABC? We know that office is gone today. In Gladstone, Queensland, every ABC journalist and person working in that office—gone. In South Australia, Port Augusta—gone. And in New South Wales, my home state, Nowra will lose the capacity to tell the reality of life for people in that region, because the ABC is being cut by our Prime Minister, who said there would be no cuts to the ABC.
Where is the National Party while this is going on out there in the region?—crying their crocodile tears and making a whole lot of hoo-ha out in the media. When it really counts, when they should be standing up in their party room, the National Party are going to water. They are weak and they are allowing this to happen. They have to be much louder in their party room and fight for their regions instead of just crying crocodile tears when agency after agency is being cut right across the country.

As a result of Mr Abbott's lies, we are now going to lose—right across this country—the state based 7.30 editions. These are so important. Every state in this country is so different culturally, geographically and economically. The ABC cuts will see an end to these very important community pieces of information that are provided weekly. Today, so far, we know that we will have an overhaul of TV sports coverage. What is up for grabs here? We could lose the Shute Shield. The mobile coverage, getting on-site vans out there to cover sports live, is gone or under threat. Four hundred staff and 100 of them from the news division, including Australian Story, Landline, Fact Check and Four Corners, face the brunt of cuts—yet the Leader of Government Business in this chamber stood up today and told a bald faced deception of a sentence. I know I am not allowed to call it a lie, so I will not call it a lie.

**Senator Bilyk:** Even if it is.

**Senator O'NEILL:** Even if it is. I know I am not allowed to do it. Nobody lost her job—but 400 people are losing their jobs today and know they are going. This is just arrogance in the extreme. From Newcastle, we know nine jobs have been lost. *(Time expired)*

**Senator FAWCETT** (South Australia—Deputy Government Whip in the Senate) *(15:16)*: I rise to take note of the answers to questions regarding the ABC. I take people back to three weeks before the last election. Tony Jones, on *Q&A*, was speaking to the Treasurer, Mr Joe Hockey, and said: 'Look, while we're on the subject, is the ABC immune from cuts?' Mr Hockey said: 'I'll just say to you, is there any waste in the ABC at all, Tony?' Tony Jones said: 'Say that again.' There was a following conversation. Mr Bowen took part in it. Tony Jones, at the end, said: 'A quick response to that, Joe Hockey.' The Treasurer said: 'If there is waste, we will cut it.'

That is a very clear statement from the coalition that where there is waste we will cut it. I go to the comments of Louise Evans, a former manager at ABC Radio National and a former managing editor of *The Australian*. She wrote: 'Pockets of the ABC have been allowed to get too fat, flabby, wasteful and unaccountable.' Very clearly, we see that people having worked within the ABC, comparing that to the private workplace, recognise that there is a lot of waste within the ABC.

Let us link back to that comment by the Treasurer on *Q&A*: 'If there is waste, we will cut the waste.' Now let us go to that statement by the Prime Minister, which was on SBS World News on the eve of the election, that everybody loves to quote. Anton Enus said: 'What about the public broadcasters, Mr Abbott—another soft target? Are the ABC and SBS in the firing line?' What did the Prime Minister actually say? He said: 'I trust everyone actually listened to what Joe Hockey said last week and again this week: "No cuts to education, no cuts to health, no change to pensions, no change to the GST and no cuts to the ABC or SBS".' He was referring to comments by Mr Hockey.
What did Mr Hockey say about the ABC? He said: 'Where there is waste, we will cut it,' which is the same approach Labor has taken with efficiency dividends. It is the same approach the coalition is taking to all government departments. Why are we taking it? We are taking it because of the debt this country has been left in by the maladministration of the former Labor government that sees us borrowing huge amounts of money—every month—just to pay the interest on Labor's borrowings.

In South Australia we are building a new hospital. Everybody is excited about the hospital but saying it is a huge amount of money. For the amount that we are borrowing to pay Labor's interest we could have six new hospitals, every year, in South Australia. That is how significant the amount is. This government is prudently—and in keeping with its consistent promises leading up to the last election—addressing the nature of Labor's legacy, which is to spend more than we receive. One of the ways you do that is by cutting waste and inefficiency.

The government has commissioned a report by Mr Peter Lewis, who has deep experience, in Seven West Media, in understanding media companies and how they run. The report he delivered to the government and the ABC has identified a whole range of areas where the ABC could save money. These are in the ABC's: technology; procurement; reducing radio-TV news-management overheads; outsourcing payroll and automating accounts payable; updating its broadcast technology; pooling staff and production managers into a shared service model; and implementing self-service rostering. There are a whole range of ways that the ABC could be making those savings to get rid of that waste and not cut programs. There is no reason for Mr Scott and the ABC to cut programs.

In South Australia, Dream Build is listed as one of the 12 most popular Australian-made shows. There is The Cook and the Chef, Poh's Kitchen and Behind the News. These are all valuable contributions that regional and local ABC officers are making, in accordance with the ABC's charter. The ABC needs to be a responsible member of the Australian community and take the measures required to get the efficiencies that will deliver the savings, without going against their charter and without undermining the services or the creative talent that is resident around this nation in regional and local areas.

Senator KETTER (Queensland) (15:21): I rise also to take note of answers given by Senator Abetz in relation to the ABC and SBS cuts. The ABC cuts leaked over the past few weeks, before being announced by the communications minister, are another broken promise that will hang around this government's neck.

I am indebted to Senator Fawcett for reiterating the offending sentence, which the Prime Minister uttered prior to the last election. I will repeat that sentence, because it is extremely important to remind people of this. In fact, it is one of those sentences you would think of entering into the Guinness World Records as the sentence in which the most broken promises have been compressed by any political leader. Again, that sentence is:

No cuts to education, no cuts to health, no change to pensions, no change to the GST and no cuts to the ABC or SBS.

These half a billion dollars in cuts to the ABC and SBS show the absolute ineffectiveness of the Nationals in standing up for regional Australians—regrettably, there are not any Nationals senators here at the moment. Much media commentary of late has been made of the bargaining power of the minor parties and Independents in the Senate of late, but there is one
minor party that is sleepwalking itself into irrelevancy through its own inaction and absolute unwillingness to stand up to the Liberals on many matter—that is, the Nationals.

Today, we have seen the itemisation of what the government's cuts to the ABC—yet another broken promise—will mean on the ground. I would like to briefly focus on what this will mean for regional Queensland, but before I do I will quote from the media release issued by the Managing Director of the ABC, Mark Scott, today, where he says:

The Government has confirmed that, in addition to the May 2014 budget cut of $120 million, the ABC budget will be cut from July 2015 by a further $207 million over four years. The schedule of cuts outlined by the Government acknowledges that extracting efficiencies incurs a big upfront liability for the ABC in the form of redundancies and early transitional costs. We must fund these costs from our current funding allocation and asset base. Because the cuts are back-end loaded, in the latter years the accumulated impact to the ABC is over eight per cent a year. We face immediate work to meet the 2016-17 ask of more than $60 million. This target requires concerted, disciplined action to meet our twin challenges. We must make significant savings to ensure that our content is largely protected from external funding shocks.

The ABC is an institution in regional Australia, where often it is the only source of local news and current affairs through radio, TV and online services. Amongst the details of the cuts announced by ABC Managing Director, Mark Scott, now we will see the closure of the Gladstone ABC radio station as well as the axing of the state 7.30 programs on Friday nights. The closure of the Gladstone radio post is a blow to a growing region whose economic development and investment in recent years has helped drive the Queensland and national economies. Some Queensland Nationals and Liberal senators may even be pleased at the axing of Queensland 7.30. This was a program, after all, that in recent months aired very revealing interviews with former LNP heavy-hitters Dr Bruce Flegg and Dr Chris Davis. Quite simply, Queensland 7.30 is one of the best and only programs for in-depth political coverage of issues specific to Queensland. There are reports today that Landline will also bear the brunt of these cuts.

There are other instances where the Nationals have capitulated to the Liberal Party. We saw that in the expression of Minister Joyce's disappointment, in respect of the China free trade agreement concerning sugar, rice and cotton. We saw it in rural health funding, with Senator Nash saying that the Nationals' commitments were not coalition commitments. We saw it with Minister Joyce ignoring SPC because they were in a Liberal seat, with the Nationals being duped on fuel excise increases and with Minister Joyce being rolled on his own agricultural competitiveness paper. So the fact that the Nationals have rolled over on these cuts is the only certainty for Queenslanders.

Federal Minister for Agriculture Joyce last week said that he wanted assurance that rural and regional news services will not suffer as a result of the ABC cuts, and Senator McKenzie has also said that she is disappointed. *(Time expired)*

**The PRESIDENT:** I presume on a separate matter, Senator Ludlam?

**Senator LUDLAM** (Western Australia) (15:26): No, Mr President, on very much the same matter.

**Senator Abetz:** They are all attacking me.

**The PRESIDENT:** So it was all answers given by Senator Abetz to the ABC?
Senator LUDLAM: Yes, President. Senator Abetz, you have earned it today. You had to expect it.

I would like at the outset to express my condolences to those staff at the ABC and their families. Today is a pretty awful day for the national broadcaster. Having not seen, obviously, what Mr Mark Scott has had to tell his staff internally, I can only imagine how people must be feeling. The fact that this was completely unnecessary really just rubs salt into the wound. So, at the outset, the Australian Greens want to put on the record our condolences to those who work so hard for the national broadcaster to provide a service that so many of us—not all, unfortunately—deeply value.

It is good that Senator Abetz has stuck around for the take note section now. During question time earlier, the government provided us a really important lesson in the power of political delusion and self-deception, and I think that they have thrown down something of a challenge to the entire Australian population. Senator Fawcett, when he was in here before, spelled out for us again that the coalition are still denying that Mr Abbott made a black and white commitment to the entire country on SBS—and the knives are also out for SBS, obviously—that there would not be any cuts to the ABC and SBS. They just pretend that it did not happen.

Through you, Mr President: Senator Abetz and other colleagues who are trying to perpetrate this delusion, which you have obviously well and truly absorbed, it makes you look a bit crazy when you just come out and pretend that it never happened, when, obviously, it did. It makes you look a little nuts. I will read in exactly what Senator Abetz said a short time ago, although we do not have the final corrected Hansard proof. When I asked about the some 400 people, nearly 10 per cent of the workforce of the national broadcaster, who have lost their jobs, Senator Abetz said 'Nobody has lost their job'—such extraordinary delusion. Confronted with a national uproar—and I attended huge and very well-attended rallies in Sydney and Melbourne over the weekend—you have frontbench colleagues starting their dopey little petitions. I should say that 'Don't read the comments' is generally considered to be the first rule of the internet, but for Mr Pyne's petition I would say that you could suspend that rule for the purpose of looking at how people have treated Mr Pyne's initiative to start a petition condemning the government for its own policy, which presumably he voted for around the cabinet table. We have got National Party MPs demanding that the cuts not happen in their backyards and Senator Abetz saying it is just not happening and that nobody has lost their jobs.

This is the Liberal approach: that it just does not exist. You would not be wanting to follow Liberal MP advice if you were seeking help crossing the road, would you? Just pretend the traffic is not there. Read the press statement. We have said clearly here in black and white that there is no traffic. I do not expect that this speech is going to pierce the powerful shroud of delusion that coalition MPs—Liberals and Nationals—have shrouded themselves with. Question time, clearly, is not the place where that is going to happen. Press conferences will not do it.

I think the coalition has thrown a very serious challenge down to the people of Australia. You may believe that Prime Minister Abbott did not make a black and white commitment not to attack the national broadcaster. You may believe that nobody is going to lose their jobs as a result. But the fact is that it is pretty bloody obvious to the rest of us that that is exactly what
is occurring in front of us. The challenge that you have thrown down is not to forget, as we run towards the 2016 election, that across the multiple fronts on which you have attacked treasured national institutions, asylum seekers, the renewable energy industry and some of the most vulnerable quarters of our population that we will remember the role that you have played in attacking our treasured national broadcasters.

Of course these entities could always be more efficient, and that is nowhere in contention. What has been happening in recent years is that, as the ABC finds internal efficiencies, it has been shifting the way that it delivers content to try and meet the way that people are demanding content, whether that be online platforms or wherever. And now, what we have seen is an Australian government attacking the national broadcaster, not in search of efficiencies but hunting down an entity that you do not believe is on Team Australia—however the hell you conceive of that. This will not be forgotten. This will be remembered, and I think your delusion will be exposed either in this parliament or at the ballot box.

Question agreed to.

CONDOLENCES

Withers, Rt Hon. Reginald (Reg) Greive

The PRESIDENT (15:32): It is with deep regret that I inform the Senate of the death on 15 November 2014 of the Rt Hon. Reginald Greive Withers, a senator for the state of Western Australia from 1966 and 1968 to 1987.

Senator ABETZ (Tasmania—Leader of the Government in the Senate, Minister Assisting the Prime Minister for the Public Service and Minister for Employment) (15:32): by leave—I move:

That the Senate records its deep regret at the death, on 15 November 2014, of the Right Honourable Reginald Greive Withers, a former senator for Western Australia, places on record its appreciation of his long and highly distinguished service to the nation and tenders its profound sympathy to his family in their bereavement.

Today the Senate pays tribute to an extraordinary parliamentary career and the coalition says a very fond farewell to one of its heroes. Reginald Greive Withers was born in Bunbury on 26 October 1924, so he had attained the venerable age of 90 when he died on 15 November this year. He grew up in Bunbury, his father, Fred, being the Labor member for Bunbury for 23 years, and, rather than Reg being the black sheep in the family, he described his father as being the 'red' sheep. He was educated at Bunbury state school and Perth Technical College. He joined the Royal Australian Navy and saw active service from 1942 to 1946 in corvettes, including lengthy spells on convoy duty in the Mediterranean. He was discharged with a rank of coder.

Having grown up in a Labor household, it might have been expected that Reg Withers would have followed his father into state politics. However, on returning to Western Australia, Withers became frustrated with the regulations and restrictions in postwar Australia. He said: 'I spent four years fighting against that sort of tyranny and I saw Menzies and the Liberals fighting against it here. So I joined the Liberal Party.' He studied law at the University of Western Australia with assistance under the Commonwealth Reconstruction Training Scheme and practised in Bunbury, first as a solicitor and then at the bar. He was a member of the Council of the Law Society of Western Australia from 1955 to 1965 and a
member of the Bunbury Municipal Council, his first foray into local government. He was also active in the Anglican Church, serving on the Bunbury diocesan council.

He became involved in politics at branch level and served on the executive of the Liberal and Country League as state vice-president from 1958 to 1961 and then as state president from 1961 to 1965. In 1966, Reg Withers was appointed to a casual vacancy in the Senate caused by the death of the then Defence minister, Sir Shane Paltridge. He became Government Whip in the Senate in 1969 and from 1972 was Leader of the Opposition in the Senate.

His well-known nickname was the 'Toecutter'. But, as his press secretary at the time, Russell Schneider, has written, to his friends it was a term of amused affection, to his enemies, the height of derision—toe-cutting being the methodology inflicted on enemies of a particular gang in New South Wales in the 70s to gain information from other criminals. It was asserted they never had to reach double figures before the information sought was gleaned from the unwilling participant.

It would be fair to say that he played his politics hard, but the man himself was nothing like the image that some like to portray. He was a man who was very practical and modest. He was proud of his naval service but never boasted about it. He was typical of that class of parliamentarians from both sides who saw service in World War II and whose guiding light was to help develop the Australia they fought to protect. They were a noble group of men who had done their duty and knew it and found no need to remind everyone.

Reg Withers used to say to his staff and his colleagues: 'Never crow in victory nor whinge in defeat.'

That was how he approached politics. He did not like political correctness and stood for old-fashioned values. He was politically tough but gentle and compassionate in private. He was a very shrewd judge of character and gave great loyalty. When it was not returned, he was simply disappointed.

One of his closest friends in the Senate was Senator Pat Kennelly, who was Labor’s deputy Senate leader for many years and who was a wily Irishman. He gave Withers this advice: 'Stay in the chamber as much as you can. Learn the procedures. At some time, knowing how this place works may be very important.' Those words were very prophetic and, I might add, they are still valuable words of advice to any senator.

Although the Whitlam government, elected in 1972 without a majority in this place, had a trying time dealing with this chamber, it is often overlooked that Reg Withers, as Leader of the Opposition in the Senate, had matching challenges. Not only did he have to placate his backbench but he had to deal with a large group in the Senate party room who were unhappy when Malcolm Fraser replaced Bill Snedden as leader. It is important to note that, in the so-called supply crisis of 1975, Withers successfully held a team together despite some strong personalities who had shown their willingness to cross the floor on other matters including, for example, men such as Senator Reg Wright from my home state and Senator Ian Wood from Queensland.

Some writers suggest that the opposition parties in the Senate were about to break at the end of 1975. Russell Schneider, the former press secretary to Reg Withers, has told me that the senators who would ordinarily be likely to break ranks were the very ones who understood
the magnitude of deferring the vote on the supply bills and supported Withers in this tough strategy. Withers also admired the strength of the female senators; he said to a colleague: 'The only man in this place are the women.' I dare say you would not be allowed to say that today. One has to admire the professionalism of Reg Withers in keeping his team together at that time. Michelle Grattan aptly headed a profile of Reg Withers with the words: 'A cool man in a hot seat.'

When Malcolm Fraser asked Withers on 11 November 1975 how long it would take, hypothetically, to secure passage of the supply bills, Withers said he thought it could be done quickly if that is what was required. The tactic of deferring the money bills, rather than defeating them outright, was Senator Withers' tactic. He, who so self-deprecatingly referred to himself as 'a bush lawyer from Bunbury', outsmarted the dapper QC Whitlam.

After Fraser was commissioned as Prime Minister, he instructed Senator Withers to have coalition senators accede to the money bills. The government leader in the Senate at the time, Senator Ken Wriedt, had unaccountably not been told of the events at Yarralumla and so, when the Senate resumed after lunch, Senator Withers said to Senator Wriedt: 'What about those bills—will you move them or will I?' Senator Wriedt moved the third reading and they passed on the voices—Wriedt believing the coalition had buckled.

There has been much written about whether the coalition was right to use its numbers to make life difficult for the Whitlam government. Senator Withers had actually lived through the war of attrition that Labor senators waged against the Holt, Gorton and McMahon governments. On at least 170 occasions, money bills had been voted against by Labor senators; but they did not have a majority in the Senate. The intent was there, if not the numbers. Indeed, Mr Whitlam indicated Labor's intention to block the coalition's money bills. This is studiously avoided by those who seek to decry the coalition's commitment to removing the most dysfunctional government Australia had experienced up until that time. Indeed, Whitlam's own words during the attempt to defeat these money bills were:

‘...we will vote against the bills here and in the Senate. Our purpose is to destroy … the government.

They were Mr Whitlam's own words; it is interesting how that is so often forgotten in commentary on the events of 1975, in which Senator Withers played such a very important role.

The day after the dismissal the caretaker ministry was sworn in and Senator Withers was given four ministries: capital territories, Special Minister of State, media, and tourism and recreation. Honourable senators may recall that one of the conditions Sir John Kerr imposed on the caretaker Prime Minister was that there be no administrative changes until after the double dissolution election, so all ministers were sworn to portfolios held by their Labor predecessors. During that double dissolution campaign, Senator Withers was asked: 'And what does the minister for media do?' In his normal, disarming way he said, 'I have no idea and if we are elected I hope we get rid of it.'

After the December election, Senator Withers was given the role of Minister for Administrative Services and continued as leader of the Liberal Party in the Senate. In 1977, to mark the Queen's Silver Jubilee visit to Australia, Reginald Grieve Withers was appointed to Her Majesty's Privy Council—a very rare honour and one bestowed on only a handful of senators since Federation. He was, in fact, the last Australian so honoured. After his sacking
from the ministry he quipped: 'Malcolm might think I am neither right nor honourable but the Queen thinks otherwise.'

His demise from the ministry in 1978 is judged by many—including myself at the time—to have been wrong. It was the result of a bizarre royal commission finding that Senator Withers' passing contact with the Commonwealth Chief Electoral Officer about an electorate's name in Queensland was somehow 'improper'. It is important to remind the Senate that the contact was purely about preserving the name of the seat of McPherson for the electoral division rather than changing the name to Gold Coast. It was not a material conversation about the redistribution itself or about boundaries, and it was in line with the views of the parliament's Joint Standing Committee on Electoral Matters that said, 'where possible, names should be maintained'.

In the wake of this finding by the royal commission—that Senator Withers had somehow acted improperly—Fraser removed Withers from the ministry. He was deeply affected by this demotion, which many felt was a disproportionate response. Indeed, years later, Senator John Button described this sacking in Hansard as 'most unfair'. No less a person than former High Court judge Ian Callinan much later wrote about the royal commission that 'as it unfolded, it became more and more obvious that no-one had done anything wrong'.

Allan Reid, Australia's greatest political journalist, deconstructed the royal commission's findings in an article in The Bulletin of the 22 of August 1978. It seems that the royal commission felt compelled to find a wrongdoer, although the purpose of the royal commission—to see if anyone had tried to influence the outcome—was found to be groundless. And I might quote from Alan Reid's article in The Bulletin of 22 August 1978:

Pearson—

who was one of Withers' departmental heads and a public servant of the highest repute and proven integrity—

had no doubt about the propriety of his action. He had referred to his copy of the Electoral Act and told Withers: 'Section 22 of the Act says you cannot influence a commissioner in the performance of his duties under the Act. The commissioner's duties are only concerned with boundaries. They give names for identification by custom. Parliament decides the names. So I've no worries. I know I am certain that it would be proper to ring Frank Coleman'—

the chief distribution commissioner—

So, here is a minister (Withers) who:

- Is aware that either parliament or cabinet has the right to determine the names of electorates
- Consults with his departmental head as to the propriety of securing a name change through a procedure which departs from that normally followed.
- Is assured by that departmental head (whose assurance is not criticised in any way by Mr Justice McGregor in the report) that under the Electoral Act such an approach is legal and proper and does not impinge on the commissioner's duties, which are concerned only with boundaries.

Yet that minister, according to Mr Justice McGregor, is guilty of an impropriety. I just can't see it. One cannot help but agree with Mr Reid's very logical and unassailable analysis. To have his ministerial career ended in this manner was unjust and denied the government one of its better, yet understated, performers.
The royal commission's decision was incomprehensible. The consequences were reprehensible. More importantly, in the eyes of the court of public opinion he was vindicated, when he was elected to the 1998 Constitutional Convention as a no-republic delegate, where he strongly supported the current constitutional arrangements, and he was also vindicated in 1991, when he was elected Lord Mayor of Perth, a role he carried out with great flair for three years.

It is a sweet-sour experience and honour for me to move this motion. When I first met Reg Withers, he was leader of the government in the Senate some 36 years ago. Being young and impressionable, I was in absolute awe of the man. I was introduced, through my involvement in the Australian Liberal Students' Federation and his son Simon Withers, who is now the Mayor of Cambridge in Western Australia. We served together on the Australian Liberal Students' Federation executive.

When I met him, Senator Withers was warm and welcoming. Never did I imagine I would be a successor in title of the great Reg Withers and have the honour of paying this tribute. I still recall the meeting in Old Parliament House. It being after 5 pm, spirits were offered, along with a roll-your-own—to be smoked indoors of course. His un-PC sense of humour was genuinely funny, sincere and without malice. I recall an exchange seeped in genuine fondness between Senator Bonner and Senator Withers, which I simply would not be able to repeat today, especially for fear that I would set the Greens into apoplexy if I did. Their banter was something to observe. They were genuine, they were sincere and the bonds of friendship were there for all to see.

I recall being at the Withers residence in Western Australia—later, after his unfair demise—and I could not help but notice that all the door plaques that he had gathered throughout his career that bore witness to his great achievements were screwed on the inside of the door of the smallest room in the house. When I discreetly observed what I had seen and commented that this might not be the most dignified of places, he said through that permanent disarming smile that he had, that he thought it was the most appropriate place for them.

His philosophy was practical. I recall Simon and I discussing changing some rules about some constitution about something. Reg overheard the discussion and simply said: 'Learn the rules. Don't bother changing them. Then play to win.' It was a great honour for me to have personally known the Rt. Hon. Reg Withers.

To his wife of 61 years, Mrs Shirley Withers, I offer the sincere condolences of all government senators, as I do to his children: Simon, who follows his father's local government interest as the Mayor of Cambridge in Western Australia; to Nigel and Rowena, and their families, especially all the grandchildren. On behalf of the coalition, I extend the sympathy of all coalition senators. Australia can be thankful for the Rt. Hon. Reg Withers' service to our nation.

**Senator WONG** (South Australia—Leader of the Opposition in the Senate) (15:52): I rise to support this condolence motion on the passing of the Rt Hon. Reg Withers, a distinguished former member of the Senate. I extend the opposition's deepest sympathy to his family and his friends.

Reg Withers lived a long and productive life; he was a man who served his country, his state, his city and his party with determination and distinction. He is usually remembered for
his role in one of the most tumultuous episodes in Australian federal politics—the dismissal of the Whitlam government in 1975. That was an era when many-larger-than life figures strode the national stage. The nation farewelled Gough Whitlam earlier this month; now, we are farewelling another of the central players in that extraordinary political drama of four decades ago. Yet, it should be remembered that Reg Withers made many significant contributions to public life, both before and after those events in 1975.

As Senator Abetz has said, he was born in the coastal town of Bunbury in Western Australia's south-west in 1924, attending the Bunbury State School and Perth Technical College before enlisting in the Royal Australian Navy in 1942. During the Second World War, he saw active service as a naval coder. After the war, he was able to study law at the University of Western Australia under the Commonwealth Reconstruction Training Scheme. After graduating, he practised law in his home town of Bunbury and served as a member of its municipal council.

It may surprise some to learn that Reg Withers' father, Fred Withers, was a locomotive engine driver and a staunch trade unionist and that he served as a Labor member of the Western Australian Legislative Assembly—the 'red sheep', as Senator Abetz described him today. In fact, Fred Withers was the delegate to the Australian Labor Party's 1929 federal conference who moved the famous 'socialist objective' into our party's platform. One might imagine how different the political history of the 1970s would have been if Reg Withers had followed his father into the Labor Party. However, that was not to be, and he joined the Liberal Party. In 1966, he was appointed to fill a vacancy in the Senate and went on to be elected as a Liberal senator for Western Australia six times.

Like many of the Western Australians who have served in this chamber over the years, he was a strong advocate for the interests of the west. He also brought a business-like and no-nonsense approach to bear and quickly became known as a highly effective political operator in this place. He served as Government Whip in the Senate from 1969 to 1971 and as opposition leader in the Senate from 1972 to 1975. He became highly adept at what some might call 'the arcane art' of Senate procedure, and deployed these skills to devastating effect in 1975. As Gough Whitlam himself wrote:

It was Senator Withers who first articulated the strategy by which my Government would ultimately be destroyed.

That was the strategy of blocking supply in this place and forcing a Constitutional crisis, a strategy not only devised by former Senator Withers but also one for which he marshalled the votes needed to implement it.

The Labor Party's position on those events is well known. But today is not the day to reprise the facts and principles that we would espouse in relation to those events. Suffice it to say, we will never condone what was done in 1975. But we can acknowledge the considerable political skills former Senator Withers brought to bear. We all know that assembling the numbers in this place for a controversial measure—and holding onto those votes—can be challenging, to say the least.

After the federal election of 1975, Reg Withers became government leader in the Senate and Minister for Administrative Services. But, as Senator Abetz has outlined, his ministerial career was cut short in August 1978 when he was sacked by then Prime Minister Malcolm Fraser. That was a move which many of his colleagues on both sides of the chamber regarded
as unwarranted and unfair. I understand Mr Fraser himself, in later years, expressed regret over that matter. As well he might, because once Reg Withers had been dispatched to the backbench, he proceeded to cross the floor and vote against government legislation many times—a case, given his background as whip, of gamekeeper turned poacher.

I was interested to hear Senator Smith last week quote former Senator Withers, explaining why he was willing to vote against his own government on legislation that he believed was contrary to his state's interest. He said, 'It is no use just having one chamber echoing the other. That is a waste of both time and money'—a pertinent remark in light of today's debates about the Senate's role.

Reg Withers retired from the Senate in 1987, having served more than 21 years. But that was not the end of his contribution to politics and public life. He was elected Lord Mayor of Perth in 1991 and served in that position until 1994. He returned to Canberra as a delegate to the Constitutional Convention of 1998, representing—perhaps unsurprisingly—the monarchists. It is a healthy reminder to those of us here today that there is life after politics in this place and that there are different ways that people can make their contribution.

Reg Withers passed away on 15 November at the age of 90. After his death, his son, Simon, told ABC Radio that his father was not an ideologically-driven person. He said he was just a common-sense politician who was interested in getting things done. Reg Withers certainly got things done. He made an enormous contribution to the public life of Australia.

On behalf of the opposition, I offer our sincere condolences to his widow, Shirley, and to his children, grandchildren and extended family.

Senators SCULLION (Northern Territory—Minister for Indigenous Affairs and Leader of The Nationals in the Senate) (15:58): I rise to associate the Nationals with this condolence motion to offer condolences to the family of the late Rt Hon. Reg Withers.

Reginald Withers entered the Senate in 1966 in a casual Liberal vacancy and then lost his seat later that year and re-entered politics to be re-elected in 1968. He remained in the Senate until his retirement in the 1987 double-dissolution election. Prior to his Senate life, Mr Withers served as a coder in the Royal Australian Navy before studying law and qualifying as a solicitor and barrister. He represented his local community as a councillor on the Bunbury Municipal Council. He returned to local government after retiring from the Senate and was Lord Mayor of Perth from 1991 until 1994. Reg Withers, we have heard today, was also the last Privy Councillor to serve in the Australian Senate and a former State President of the Liberal Party.

These are the bare facts of his life but we all know that Reg Withers was a key player in the dismissal of Whitlam's Labor government. As Leader of the Opposition in the Senate from December 1982 until the 1975 election, his tough character and belief in Liberal Party loyalty kept opposition senators in line during a time of what must have been intense political pressure.

I understand that Reg Withers was also a mentor to younger politicians and I note in passing that he even, late in life, participated in one of Senator Smith's preselections. With customary self-deprecation he once told The Age that 'I'm just a boy from Bunbury.' I have often noted in this place that there are those who play up all their qualities and there are those who play them down. I know never to underestimate the latter.
Reg Withers has been described as Whitlam's nemesis. He is credited with keeping potentially wavering Liberal senators together. As his son Simon stated: 'It was dad who brought Whitlam down. He had to hold those senators together while Gough was rampaging around the country.'

Instead of rejecting appropriation bills, Reg Withers's strategy was to defer them, ensuring they were available to procure supply under a Liberal government. Meanwhile the Whitlam government slowly ran out of money. It must have required enormous strength of character to keep a loose, nervous, often unhappy and wafer thin coalition of senators to oppose the government for many months until the government finally fell. He did whatever was needed and it was reportedly a close run thing, with several Liberals close to turning. It was claimed that it was this period in which he was anointed the moniker the 'toe cutter'.

After winning government Reg Withers had but a short time, three years, before Prime Minister Fraser dumped him from the ministry. On this occasion he said:

> When the man who's carried the biggest knife in this country for the last ten years starts giving you a lecture about propriety, integrity and the need to resign, then he's either making a sick joke or playing you for a mug.

In the ensuing years Reg Withers crossed the floor 11 times, gaining the grudging respect of the tough Labor Finance Minister Peter Walsh.

Reg Withers was a tough player but he could also be funny. He told the Senate that two lawyers called Harders and Neaves ought to be sacked or immortalised somehow in limericks. He had a go in the Senate:

A negligent lawyer named Harders,
Had a head as empty as Mother Hubbard's larders.
Because he was so lax,
The Commissioner received no tax,
And the companies went to the bottom of the harbours.

He followed straightaway and of Mr Neaves, he said:

A foolish lawyer named Neaves,
Was so negligent he encouraged tax thieves.
Because he was so lax,
The Act on income tax
Now has another 80 leaves.

When former industry minister Senator John Button made his valedictory speech, he spoke of a conversation he had with Reg Withers in 1976 after the Labor government had been defeated and he had become the Minister for Administrative Services. Button told the Senate:

> In the first conversation we had I said, 'Reg, would it be possible for me to get a new typewriter in my office?' He looked at me and he said: 'I think so You are now where you ought to be, and I intend to see that you stay there. I see no reason why you shouldn't be happy'.

John Button also said that Reg Withers was most unfairly treated when he was removed from the Fraser ministry. Button recalled another conversation where he said:

'Reg, you know the line from the T.S. Eliot play: This last thing is the greatest treason, to do the right thing for the wrong reason. That's what happened to you, Reg. And he said to me: 'Who's T.S. Eliot?'
Former Liberal Senator Fred Chaney described Reg Withers as a very complex man with a great affection for history and more capacity to see what was happening in a longer term than his peers. One of my predecessors, former Leader of the Nationals in the Senate, Senator Stan Collard, said that he always admired Withers's knowledge of the standing orders. Collard told the Senate:

I remember that at a time such as this, when the parliament was about to rise and the then opposition, predictably, was doing what we have been doing for the last week—trying to hold things up—through some quirk and his very good knowledge of the standing orders, he caught the then opposition like a football team, running completely the wrong way, and he had the legislation and us out of this place in 10 or 15 minutes flat. It was a lesson for young backbenchers.

Reg Withers was a strategic thinker and an authentic career politician. He played a significant role in the nation's biggest historical political drama. He was a colourful character but his mission was always focused on public service. We have lost this great Australian and this complex man and our thoughts go to his family and close friends who realise this the most.

Senator JOHNSTON (Western Australia—Minister for Defence) (16:04): I would like to commence my remarks in this condolence motion by thanking Senator Abetz for his very detailed traverse over the life of a great Western Australian Liberal. Of course, I want to adopt all those remarks as my own and so I will try and be as brief as I can.

Reg died at home the Saturday before last surrounded by his family, his wife of 61 years, Shirley; and his children, Simon, Nigel and Rowena. Reg was a mentor of mine and during my parliamentary career our paths crossed many trajectories. Indeed, he was present at my preselection way back in 2001.

His early life saw him serve, as many senators have acknowledged, in the Royal Australian Navy from 1942 to 1946, before returning to Australia to study law at my old alma mater, the University of Western Australia, later working as a barrister and solicitor in the then relatively small town of Bunbury in the south-west of Western Australia.

As was my experience, Reg became politically aware at the University of Western Australia and joined the Liberal Party there. He was President of the WA Liberal Party for four years from 1961 to 1965 before filling a Senate vacancy in 1966. He represented our home state of Western Australia from 1966 to 1987, when he retired from the Senate at the double dissolution election. He served as Senate Government Whip from 1969 to 1971 and became a key member of Malcolm Fraser's caretaker government after the Dismissal in 1975. Many senators have traversed his fabulous parliamentary career as a minister, as whip, as Leader of the Opposition in the Senate and Leader of the Government in the Senate. Again, of course, I adopt those words.

He went on to become, as many people may not know, the Lord Mayor of Perth in 1991 and for a further four years. He had great vision and insight as to where he saw Perth going. He wanted to sink Perth's CBD railway line and build more apartments in the city. Today that is precisely what is happening. It was a man, as I say, of great foresight. These plans are currently eventuating and Perth is much the better, more vibrant and livable because of it. Notwithstanding his capacity for common sense and wisdom, he was an extremely humble man. As a country lawyer turned Liberal Party president and then a senator for my home state of Western Australia, I felt a close affinity to him. He was, as I say, very kind and generous.
with his advice and his very wise counsel. He had an outstanding commitment to public service and, of course, to our Liberal Party, its values and its beliefs.

Reg was and will continue to be greatly admired by all Western Australians, particularly Western Australian Liberals. I seek to pass on, and I will pass on, my condolences to the Withers family and to the wider family, of which there are many. Not only have you lost a loving husband, a father and a grandfather but the nation has lost a great statesman who will continue to be both missed and admired. I am battling to think of a greater contribution to Western Australia of recent times because the dark years of the early seventies were when Western Australia was at its most politically active. Having Reg Withers in this place served my state particularly well, and I thank him for that.

Senator BACK (Western Australia) (16:08): Mr President, I rise to associate myself with the motion of the Leader of the Government in the Senate and also the comments made by Senator Abetz and others following the passing on 15 November of one of Western Australia's icons and certainly one of the icons of the Liberal Party in our state, the Hon. Mr Reg Withers. I look forward to attending on Friday the public memorial service to honour his life. At that time I am sure his wife and his family will enjoy the many accolades that will be spoken about him.

I have to differ somewhat from my colleague Senator Johnston. He commented that Bunbury was a relatively small town. Indeed, I grew up in Bunbury. I was there from the mid-1950s until the mid-1960s. I did not know him, but my father, who was a bank manager in the town, certainly did, and I do recall his name at that time. I think his first foray into local government was when he was a member of the Bunbury City Council. There were some luminaries on that particular council—not least of course Dr Ern Manea, who went on for many years to grace the city and, indeed, our state.

Reg Withers cast an enormous shadow over federal politics, particularly from Western Australia. He was a mentor to so many people who came up through Liberal ranks, from students and eventually parliamentarians. As has been said, he remained an active member of preselections—with a few acerbic comments and some advice here and there that one would be very unwise to have ignored. Rather than repeat the comments of others, I think for history it is important to record, without going into political partisanship, just how important from our side—and I can understand others having a different view—the circumstances were in 1975 that led to the events that had their finality on 11 November that year.

Its genesis, of course, was an attempt by the then Minister for Minerals and Energy to bypass the Treasury-approved Loans Council process to borrow some US$4 billion for the purpose, I would say, of nationalising the resources sector and also for some projects associated with rail transport and others. That $4 billion in 1975, according to the Parliamentary Library only this afternoon, would translate into $17.65 billion today. Of course, today if anybody tried to go outside the approved Treasury process to borrow, there would be the same outrage that there was then. History records that, rather than go through European or United States approved borrowing processes and facilities, the attempt was made to access Arab petrodollars through one Tirath Khemlani. Remember that, at that time, the price of oil had gone up a multiplier of four times between 1973 and 1974, so the Arab world was flush with cash.
History records that by May of 1975 these attempts—which had prior to that time been secret—were made public, and the then Prime Minister, Mr Whitlam, directed Mr Connor to cease any further negotiations with Mr Khemlani and his troops. Mr Connor did not do that; he continued discussions behind the scenes. All of this Mr Withers, in his position as Leader of the Opposition in the Senate, would have been aware of as a result of some excellent work done by others, including Mr Phillip Lynch. It did cause the then Prime Minister to sack his Treasurer, Dr Cairns, in July of 1975. Then in October of 1975 it became publicly known that Mr Connor had continued trying to negotiate with Mr Khemlani. It was at that time that Mr Whitlam had no option but to sack Mr Connor.

I give that historic perspective simply because they must have been incredibly difficult times in this parliament. It must have been very difficult for the Leader of the Opposition in the Senate—knowing what was going on—to, as others have said, keep the troops together. Indeed, as I understand it, there was a motion moved in the Senate which would have had the effect of Mr Whitlam going to the people to get a validation for the actions that had been taken with regard to the Arab loans affair. If I remember correctly the words that were read, the motion was that the loans affair was an example of extraordinary and reprehensible behaviour. History, of course, records that Mr Whitlam did not accede to that motion.

At a time like this, one should reflect on the public service that all of us do provide to this place—by those coming from the Northern Territory, Queensland and Tasmania and by us from Western Australia. We know what the cost is. We know that families suffer. It is bad enough today when we have a direct flight from Canberra to Perth, but in days gone by, when a journey from Perth to Canberra would have probably taken the best part of a weekend, the likelihood of people getting home at all for weekends would have been slim. We know that the burden on families and the sacrifice on families are incredible.

There is no doubt at all that history records—and I think it has been stated today by Senator Abetz and Senator Wong—that a wrong was visited upon Reg Withers in relation to the outcome of the royal commission, and that must have weighed heavily on him and, no doubt, his family when that event took place and its consequences played out. But, as Senator Johnson has said, Reg Withers went on to become Lord Mayor of Perth at a very interesting time in its development—and it was pleasing to see the comments of today's Lord Mayor, Ms Lisa Scaffidi, paying tribute to Reg Withers' contribution to the development of our city.

In conclusion, I do look forward to the opportunity to attend the service on Friday during which the life of Reg Withers will be played out for those of us who did not know him well. I have no doubt at all that his family will be justifiably proud of the contribution he made in this place.

Senator SMITH (Western Australia) (16:15): I also would like to rise to associate myself with the comments of the Leader of the Government in Senate, Senator Abetz, and others. Of course, today we note the contribution not just of a senator but also of a Senate leader and a lord mayor of Perth. It is not possible to understand politics in Western Australia without learning of the significant contribution of Reg Withers and, as we have heard from others, of his father as well. Reg Withers was a great champion of Western Australia and of the Australian Senate—which I think are two of Australia's greatest virtues. I have had an opportunity to speak briefly in the adjournment about Mr Withers' contribution. I will not
reflect on that again but I will just remind us of how extraordinary his early entry to the Senate was—and, I would add, an early demonstration of his tenacity.

When Reg Withers came to the Senate it was a historically interesting event when we reflect on that today. Many will be unaware that, prior to 1977, section 15 of the Constitution required that senators appointed to fill a casual vacancy had to subsequently be elected at the next general election as a mean of confirming their appointment. Reg Withers was chosen by the parliament of Western Australia in February 1966 to fill the vacancy caused by the death of Sir Shane Paltridge, who was the Minister for Defence in the Menzies government. When the new Prime Minister, Harold Holt, called an election in November of that year, November 1966, it meant that Senator Withers had to face the people. Unfortunately for Senator Withers, despite the strong result for the Liberal Party overall, the Senate vote in Western Australia fell. Of course, what that meant was that Senator Withers was defeated after only nine months in the Senate. That could have been the end of the story but, showing the resolution and tenacity for which he has become famous, Reg Withers fought his way back and was re-elected as a senator for Western Australia at the half Senate election in 1967. And, as they say, the rest is history.

I would like to use this opportunity to share with the Senate and to share for the record the comments of Mr Bill Hassell, a former state president of the Western Australian Liberal Party and a former parliamentary leader of the Western Australia state parliamentary party. He described Mr Withers as 'a public figure but a private man'. It is interesting to hear how those outside of politics observed the events around 1975 and, more particularly, Reg Withers' contribution. Mr Hassell writes:

What is not so well known outside politics is the vital role played by Reg Withers in getting the Liberal Senators to maintain their stance in blocking the Supply Bills. As in all cases in politics where tough decisions are needed and made, and where the heat goes on as it certainly was going on then, there are doubters and waverers, those who lose their nerve, those who fall over at the gate, and some who creep around in the background seeking to be 'reasonable' and accommodating when what is needed is a firm and unwavering position. Such was exactly the position faced by Reg Withers at that critical time.

Mr Hassell went on to say:

His huge achievement was to keep the team together, to keep the Liberal Senators committed right through to the end in the face of all the doubts and doubters, the weaklings and the 'underminers'.

So it was a very powerful contribution, and I think it is worth echoing Mr Hassell's comments.

Finally, Mr Withers was a significant player at the Constitutional Convention many, many years later. Certainly, for myself and many Western Australians who were opposed to the Australian Republican model that was put, Mr Withers played a very, very significant role in the official 'no' campaign that we waged in Western Australia. Mr Hassell went on to say:

Reg Withers was the Chairman of the NO campaign committee which oversaw my work and the campaign. I know he started out with considerable doubts as to working with me, and I had my reservations about how we would get on. The years of sparring had left a mark.

But as the campaign got underway I quickly found him to be a magnificent supporter of the cause and of the work being done, the wise and quiet voice in the background who smoothed things over and who used his contacts to help garner the essential funds and support we needed.

When it was all over I wrote to him to thank him and mentioned that I had felt at the beginning that he had held considerable doubts about working with me, but that I appreciated all he had done both
generally and personally to support me in the work of the campaign. An extraordinarily generous reply was forthcoming in which he acknowledged what I had said of the beginning and that his opinion too had been transformed by the events of the campaign.

So not only was Reg Withers a significant political man; he was also a man of great generosity.

I am sure I join with many others in extending our sympathies to Mrs Shirley Withers and their children, Simon, Nigel and Rowena, and their families.

Question agreed to, honourable senators standing in their places.

NOTICES

Presentation

Senators Carr, Muir, Xenophon, Madigan and Rice to move:

That the following matter be referred to the Economics References Committee for inquiry and report by the first sitting day of November 2015:

The future of Australia's automotive industry, with particular reference to:

(a) maintaining the capacity for Australia to engage in advanced manufacturing, by ensuring skills and industrial capabilities that have been sustained by the automotive industry are not lost;

(b) reducing Australia's dependency on commodity exports by diversifying the country's economic base, noting the importance of advanced manufacturing, including the automotive industry, in this diversification;

(c) the role of all sectors of the automotive industry, including, but not limited to, motor vehicle production, component making, after-market manufacturing, engineering, servicing, retail motor trades, other forms of sales support, and the training of apprentices, in supporting an advanced broad-based economy;

(d) the special difficulties faced by component makers in the transition to global supply chains and to other forms of manufacturing, especially as a result of the closure announcements made by the motor vehicle producers;

(e) new technologies influencing the automotive industry, both in Australia and internationally, especially new and developing forms of propulsion, such as hydrogen, electric engines and hybrid engines;

(f) new business models for the industry, including employee share models and attracting international venture capital and private investment;

(g) the possible effects of early closure of motor vehicle producers, including risks and consequences for the industry, skills, capabilities and the broader economy, including social consequences, and what policy actions could mitigate or exacerbate these risks and consequences;

(h) the need to synthesise and consolidate the findings, recommendations and knowledge of other reviews and inquiries pertinent to the automotive industry, in order to identify key policy inconsistencies, regulatory burdens and factors for growth and investment;

(i) the importance of long-term, stable employment for workers in the automotive industry, and the need for greater access to transitional training and career opportunities; and

(j) any other related matters.
Senator Ludwig to move:

That there be laid on the table by the Minister representing the Minister for Infrastructure and Regional Development (Senator Johnston) and the Minister representing the Treasurer (Senator Cormann), no later than 3.30 pm on Wednesday, 26 November 2014, any documents held in relation to:
(a) the Moreton Bay rail link project (the project);
(b) funding sought by the Queensland Government for this project; and
(c) the assessment and/or priority of this project.

Senator Ludwig to move:

That there be laid on the table by the Minister representing the Minister for Infrastructure and Regional Development (Senator Johnston) and the Minister representing the Treasurer (Senator Cormann), no later than 3.30 pm on Wednesday, 26 November 2014, any documents held in relation to:
(a) the Ipswich Motorway, Darra to Rocklea, project (the project);
(b) funding sought by the Queensland Government for this project; and
(c) the assessment and/or priority of this project.

Senator McLucas to move:

That there be laid on the table by the Minister representing the Minister for Health, no later than 3.30 pm on Tuesday, 1 December 2014, copies of the following National Mental Health Commission documents in relation to its Mental Health review, as referred to during the estimates hearing of the Community Affairs Legislation Committee on Wednesday, 22 October 2014:
(a) the preliminary report completed during February 2014; and
(b) the interim report completed in June 2014.

Senator Waters to move:

That there be laid on the table by the Minister representing the Minister for the Environment, no later than noon on 27 November 2014, any documents, including any attachments, containing any request to the Queensland Government for further information, including any request pursuant to section 95A of the Environment Protection and Biodiversity Conservation Act 1999, in relation to the proposal for onshore disposal of dredge spoil at Abbot Point pursuant to EPBC referrals 2014/7355 and 2014/7356.

Senator Di Natale to move:

That the Senate—
(a) notes:
(i) that the Reclink National Program has delivered over 100 000 participation opportunities to thousands of people experiencing disadvantage across Australia in partnership with over 450 community organisations,
(ii) there is no other organisation in Australia with the expertise, capacity and capability of effectively and efficiently providing over 100 000 participation opportunities every year to the most disenfranchised, disadvantaged and forgotten Australians, and
(iii) widespread community concern at the diminishing resources to support people experiencing disadvantage, many of whom have relied upon Reclink's program for social participation and social inclusion through engagement with sport and recreation programs; and
(b) calls on the Federal Government to reinstate funding to the Reclink National Program.

Senators Leyonhjelm and Day to move:

That the provisions of subclauses 5(1), 5(4) and 5(5) of the Competition and Consumer (Industry Code—Port Terminal Access (Bulk Wheat)) Regulation 2014, as contained in Select Legislative

**Senators Leyonhjelm and Day** to move:
That the Senate acknowledges that it has a responsibility to propose and discuss options to cut government spending.

**Senator Moore, Minister Assisting the Prime Minister for Women (Senator Cash) and Senator Waters** to move:
That the Senate—

(a) notes that:
(i) Tuesday, 25 November 2014, marks the International Day for the Elimination of Violence Against Women,
(ii) the day has been designated by the United Nations (UN) to raise public awareness of the problem of violence against women,
(iii) violence against women continues to be a global pandemic, and that UN figures show that up to 70 per cent of women experience violence in their lifetime, and
(iv) 25 November is also White Ribbon Day;
(b) recognises that:
(i) violence against women is a violation of women’s human rights,
(ii) anyone committed to preventing violence against women can become a White Ribbon Australia advocate,
(iii) White Ribbon Australia is Australia’s only national male-led campaign to stop violence against women, and
(iv) there are a range of government and community initiatives to protect women and children who are the victims of violence;
(c) congratulates the men and women who provide support to women who face violence in their homes and communities, including to the White Ribbon Campaign; and
(d) acknowledges:
(i) the cross-party support of the National Plan to Reduce Violence Against Women and their Children 2010-2022, and
(ii) the role of successive governments in working to ensure a significant and sustained reduction in violence against women and children and the need for this support to continue.

**Senator Hanson-Young** to move:
That the Senate—

(a) condemns the Government's decision to no longer resettle United Nations High Commissioner for Refugees (UNHCR) approved refugees from Indonesia after 1 July 2014;
(b) recognises that there are more than 10 000 asylum seekers and refugees already registered with the UNHCR in Indonesia awaiting resettlement;
(c) calls on the Minister for Immigration and Border Protection (Mr Morrison) to heed the requests of Indonesia and urgently meet with his counterparts regarding the Australian Government's decision; and
(d) calls on the Government to reverse the decision and instead work collaboratively with our neighbours, accelerate refugee processing and increase Australia's intake from the region.
Senators Singh and McEwen to move:

That the Senate—

(a) notes:

(i) the promise of the Prime Minister (Mr Abbott) at the 2013 election not to cut funding to the Australian Broadcasting Corporation (ABC) or the Special Broadcasting Service (SBS),

(ii) that the Abbott Government has announced cuts of $254 million to the ABC resulting in the loss of 400 jobs, the closure of state-based 7.30 programs and the closure of Local Radio programs,

(iii) regional Australia has borne the worst of the cuts, with the closure of five regional radio offices and the Adelaide television production studio, and remaining non-news television production in other states to be wound-down,

(iv) thousands of Australians have rallied across the country from Hobart to Darwin, Ballarat to Newcastle and Bega to Perth to defend the rural and regional services of the ABC from cuts, and

(v) the obligations for the ABC to provide a service to rural and regional Australia under its charter and the duty of the Government to ensure that it is properly resourced to do so; and

(b) opposes the cuts to the ABC and SBS and calls on the Government to protect their services to regional Australia.

Withdrawal

Senator FIFIELD (Victoria—Manager of Government Business in the Senate and Assistant Minister for Social Services) (16:21): I withdraw business of the Senate notice of motion No. 2 standing in my name for today proposing a reference to the Economics Legislation Committee.

BUSINESS

Senate Temporary Orders

Senator FIFIELD (Victoria—Manager of Government Business in the Senate and Assistant Minister for Social Services) (16:22): I move:

That the following general business orders of the day be considered on Thursday, 27 November 2014 under the temporary order relating to the consideration of private senators' bills:

No. 29 Environment Protection and Biodiversity Conservation Amendment Bill 2014.
No. 7 Fair Trade (Australian Standards) Bill 2013.

Question agreed to.

Leave of Absence

Senator McEWEN (South Australia—Opposition Whip in the Senate) (16:22): by leave—I move:

That leave of absence be granted to Senator Marshall for 24 November and 25 November 2014, on account of parliamentary business.

Question agreed to.

Senator BUSHBY (Tasmania—Chief Government Whip in the Senate) (16:23): by leave—I move:

That leave of absence be granted to Senator Mason from 24 November to 27 November 2014, on account of parliamentary business.

Question agreed to.
NOTICES
Postponement

The following items of business were postponed:

General business notice of motion no. 499 standing in the name of Senator Rice for today, relating to high speed rail, postponed till 26 November 2014.

General business notices of motion nos 508 and 519 standing in the name of Senator O'Sullivan for today, relating to the Queensland coal industry and to the China-Australia Free Trade Agreement, postponed till 25 November 2014.

COMMITTEES
Reporting Date

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

Community Affairs References Committee—income inequality—extended from 26 November to 2 December 2014.

Environment and Communications References Committee—
Invasive species—extended from 3 December 2014 to 4 March 2015
National Landcare Program—extended from 26 November 2014 to 11 February 2015.


Legal and Constitutional Affairs References Committee—
Australian Federal Police – Oil for Food Taskforce—extended from 26 November 2014 to 19 March 2015
Illicit firearms—extended from 2 December 2014 to 26 March 2015.

The PRESIDENT (16:24): I remind senators that the question may be put on any of those proposals at the request of any senator. There being none, we will move on.

Education and Employment References Committee
Reference

Senator RHIANNON (New South Wales) (16:25): I move:

That:

(a) the following matter be referred to the Education and Employment References Committee for inquiry and report by 10 August 2015:

The operation, regulation and funding of private vocational education and training (VET) providers in Australia, including:

(i) the access private VET providers have to Commonwealth and state public funding,
(ii) the cost of education at private VET providers,
(iii) the regulatory regime private VET providers operate within,
(iv) the operation of VET-FEE-HELP,
(v) the quality of education provided by private VET providers, volume of learning requirements and graduate outcomes,
(vi) marketing and promotional techniques employed by private VET providers and education brokers both domestic and international,
(vii) any incidents or allegations of non-compliance with regulation and funding arrangements at private VET providers,
(viii) political donations made by private VET providers,
(ix) international comparisons to the Australian funding and regulatory regime,
(x) the operation, regulation and funding of private VET providers specifically offering courses in aged care and early childhood education and their labour market outcomes, and
(xi) any related matters; and
(b) the committee will table interim reports to the Senate on 2 March 2015 and 15 June 2015.
Question agreed to.

MOTIONS
Kimberley Interpreting Service
Senator SIEWERT (Western Australia—Australian Greens Whip) (16:25): I move:
That the Senate—
(a) acknowledges:
(i) that being understood is essential in accessing justice,
(ii) the importance of interpreting services in the justice system, and
(iii) the unacceptable rate of Aboriginal and Torres Strait Islander incarceration;
(b) notes:
(i) the Kimberley Interpreting Service (KIS) has around 100 interpreters who speak over 30 Indigenous languages,
(ii) that in many Western Australia communities English is not the first language, and
(iii) since 2006 KIS has been funded through a state and federal government partnership which ended in June 2014, and the Western Australian Government has said it was not in a position to provide any more funding; and
(c) calls on the Commonwealth Government to work with the Western Australian Government to ensure ongoing funding for essential interpreting services.
Question agreed to.

Indigenous Affairs
Senator SIEWERT (Western Australia—Australian Greens Whip) (16:26): I move:
That the Senate—
(a) acknowledges that the gap between life expectancy, health outcomes and incarceration rates of Aboriginal to non-Aboriginal people remains unacceptable;
(b) notes:
(i) the release of the Overcoming Indigenous disadvantage report on 19 November 2014 which finds:
(A) the adult imprisonment rate increased 57 per cent between 2000 and 2013,
(B) juvenile detention rates increased sharply between 2000 01 and 2007 08, and have fluctuated since at around 24 times the rate for non-Indigenous youth, and
(C) Aboriginal and Torres Strait Islander Australians make up only 2.3 per cent of the adult population, but as of 30 June 2013 made up over a quarter (27.4 per cent) of the adult prison population, and
(ii) that peak Aboriginal organisations have been calling for justice targets to address the unacceptably high incarceration rates of Aboriginal people; and
(c) calls on the Government to take leadership on this issue and introduce a national justice target.

Question agreed to.

**Defence Personnel**

**Senator McEWEN** (South Australia—Opposition Whip in the Senate) (16:26): At the request of Senator Conroy, I move:

That the Senate calls on the Abbott Government to immediately request

That the Defence Force Remuneration Tribunal reconsider the Government's pay offer, which cuts the real pay and conditions of Australian Defence Force (ADF) personnel, for the following reasons – the original offer:

(a) was unfair and wrong, particularly in light of the 2014-15 Budget allocating funding for an above inflation pay rise for ADF personnel;
(b) is affecting morale and is likely to affect recruitment;
(c) has caused a backlash amongst ADF servicemen and women, their families, and the wider community; and
(d) should be changed to ensure a fair deal for our ADF personnel.

Question agreed to.

**Australian Electoral Commission**

**Senator McEWEN** (South Australia—Opposition Whip in the Senate) (16:27): At the request of Senator Wong, I move:

That the Senate—

(a) notes:

(i) the role of the Australian Electoral Commissioner (the Commissioner) is essential to the performance, transparency and accountability of the Australian Electoral Commission (AEC),

(ii) the need to maintain community confidence in the ability of the AEC to carry out its statutory responsibilities, including the upcoming redistributions in Western Australia, New South Wales and the Australian Capital Territory,

(iii) the Special Minister of State advised the public That the previous Commissioner, Mr Ed Killesteyn PSM, tendered his resignation to the Governor-General on 21 February 2014,

(iv) the position of Commissioner has formally been vacant since the resignation of Mr Killesteyn took effect on 26 June 2014,

(v) the statement of the Special Minister of State to the Finance and Public Administration Legislation Committee at the 2013/14 additional estimates on 25 February 2014 that 'The intention is to have someone in place by about 4 July if humanly possible',

(vi) the position of non-judicial member of the AEC has been vacant since the resignation of the Australian Statistician, Mr Brian Pink, on 12 January 2014, and

(vii) the position of Australian Electoral Officer is also vacant in two states and one territory; and

(b) calls on the Special Minister of State to take immediate steps to ensure the appointment, as a matter of priority, of suitably qualified and experienced people to the roles of:

(i) Australian Electoral Commissioner;

(ii) non-judicial member of the Australian Electoral Commission, and
Mr President, I seek leave to make a short statement.

The PRESIDENT: Leave is granted for one minute.

Senator FIFIELD: The government does recognise the Australian Electoral Commission's crucial role in safeguarding our democracy. The integrity of the AEC is paramount and it is vital that the organisation maintain the confidence of the community. The appointment of senior AEC officials is therefore an extremely important process. Positions such as the Electoral Commissioner, other members of the commission and Australian electoral officers in the states and territories must be filled by suitably qualified and experienced candidates. Above all, the government must make sound, considered decisions in relation to these appointments. This matter was fully canvassed in the Senate estimates hearing on 20 November. The government does not support the motion but will not be seeking to divide.

Question agreed to.

DOCUMENTS
Asylum Seekers
Order for the Production of Documents

Senator KIM CARR (Victoria) (16:28): I move:

That there be laid on the table by the Minister representing the Minister for Immigration and Border Protection, no later than 3.30 pm on Thursday, 27 November 2014, the report of the investigation by Transfield Services of allegations regarding the treatment of asylum seekers in the Manus Island regional processing centre, as referred to in a statement released by the Minister's office on 3 November 2014.

Senator CASH (Western Australia—Assistant Minister for Immigration and Border Protection and Minister Assisting the Prime Minister for Women) (16:29): I seek leave to make a short statement.

The PRESIDENT: Leave is granted for one minute.

Senator CASH: I am advised that there is no statement released by the minister for immigration's office that meets the criteria set out in Senator Carr's motion.

The Senate divided. [16:33]

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

AYES

Bilyk, CL
Bullock, J.W.
Carr, KJ
Dastyari, S
Faulkner, J
Hanson-Young, SC

Brown, CL
Cameron, DN
Collins, JMA
Di Natole, R
Gallacher, AM
Ketter, CR

CHAMBER
Monday, 24 November 2014

SENATE

9073

AYES

Lambie, J
Leyonhjelm, DE
Ludlam, S
Madigan, JJ
McLусas, J
Moore, CM
O’Neill, DM
Polley, H
Rice, J
Singh, LM
Urquhart, AE (teller)
Waters, LJ
Wright, PL

Lazarus, GP
Lines, S
Ludwig, JW
McEwen, A
Milne, C
Muir, R
Peris, N
Rhiannon, L
Siewert, R
Sterle, G
Wang, Z
Whish-Wilson, PS
Xenophon, N

NOES

Back, CJ
Birmingham, SJ
Canavan, M.J.
Colbeck, R
Edwards, S
Ferravanti-Wells, C
Heffernan, W
Macdonald, ID
McKenzie, B
O’Sullivan, B
Payne, MA
Ronaldson, M
Ryan, SM
Seselja, Z
Smith, D

Bernardi, C
Bushby, DC (teller)
Cash, MC
Day, R.J.
Fawcett, DJ
Fifield, MP
Johnston, D
McGrath, J
Nash, F
Parry, S
Reynolds, L
Ruston, A
Scullion, NG
Sinodinos, A
Williams, JR

PAIRS

Conroy, SM
Lundy, KA
Marshall, GM
Wong, P

Abetz, E
Brandis, GH
Mason, B
Cormann, M

Question agreed to.

MOTIONS

Australian Broadcasting Corporation
Special Broadcasting Service

Senator LUDLAM (Western Australia) (16:37): I move:

That the Senate—

(a) notes that:
(i) polling consistently shows that the Australian Broadcasting Corporation (ABC) and the Special Broadcasting Service (SBS) are the most trusted media outlets in Australia and two of the most trusted organisations of any nature,

(ii) the then Leader of the Opposition, Mr Abbott, stated categorically before the 2013 federal election that there would be ‘no cuts to the ABC or SBS’, and

(iii) on 1 September 2014, the Minister for Communications refused an order of the Senate to lay on the table a copy of Mr Peter Lewis’ efficiency review into the ABC and SBS; and

(b) condemns the Abbott Government’s:

(i) unjustified budget cuts to the ABC and SBS, and

(ii) deception of the Australian public in promising no cuts to the nation’s public broadcasters.

The PRESIDENT: The question is that notice of motion No. 511 standing in the name of Senator Ludlam be agreed to.

The Senate divided. [16:38]

(The President—Senator Parry)

Ayes ...................... 37
Noes ...................... 31
Majority ................. 6

AYES
Bilyk, CL
Brown, CL
Bullock, J.W.
Cameron, DN
Carr, KJ
Dastyari, S
Di Natale, R
Faulkner, J
Gallacher, AM
Hanson-Young, SC
Ketter, CR
Lambie, J
Lazarus, GP
Lines, S
Ludlam, S
Ludwig, JW
Madigan, JJ
McEwen, A
McLucas, J
Milne, C
Moore, CM
Muir, R
O’Neill, DM
Peris, N
Polley, H
Rhiannon, L
Rice, J
Siewert, R
Singh, LM
Sterle, G
Urquhart, AE (teller)
Wang, Z
Waters, LJ
Whish-Wilson, PS
Wong, P
Wright, PL
Xenophon, N

NOES
Back, CJ
Bernardi, C
Birmingham, SJ
Bushby, DC (teller)
Canavan, M.J.
Cash, MC
Colbeck, R
Day, R.J.
Edwards, S
Fawcett, DJ
Fierravanti-Wells, C
Fifield, MP
Heffernan, W
Johnston, D
Leyonhjelm, DE
Macdonald, ID
McGrath, J
McKenzie, B
Senator LUDLAM (Western Australia) (16:40): I ask leave to make a short statement in relation to general business notice of motion No. 517, which relates to an order for the production of documents concerning a PricewaterhouseCoopers financial study into the cost of the government's data retention policy.

The PRESIDENT: Leave is granted for one minute.

Senator LUDLAM: For those who are not aware of what this relates to, Mr Malcolm Turnbull recently introduced a bill for a mandatory data retention proposal which would force telecommunications providers—many of them very unwillingly, I should say—to warehouse huge volumes of private data effectively belonging to all of us, from young children to High Court judges to diplomats to ordinary Australians right across the country. Every man, woman and child, every device in the country, and that is going to be extremely costly. It amounts to little more than a surveillance tax—one that was not announced before the election. Industry presumably will pass on some of these costs to users, and the rest will be picked up by taxpayers. The PwC report has been commissioned to find out how much it will cost. I think it is imperative that the government puts that report into the public domain so that we know what the cost will be.


The PRESIDENT: Leave is granted for one minute.

Senator FIFIELD: The government will not be supporting this motion. The consultancy report was created for the purpose of informing cabinet. It contains commercially confidential and potentially market-sensitive information provided by key participants in the telecommunications industry. The government undertook to engage with industry in good faith and on the understanding that the information they would provide the government via
PricewaterhouseCoopers would be kept confidential. To disclose their confidential information in this way would be a flagrant breach of that understanding. Senators will understand that, when stakeholders on that basis provide information to the government, it would be unethical for the government to violate their confidence. The government has been transparent and open about the policy and legislative matters on this issue and is committed to ongoing engagement with all stakeholders.

**Senator LUDLAM** (Western Australia) (16:42): I move:

That the Senate—

(a) notes that—

(i) the Attorney-General's Department is reported to have contracted PricewaterhouseCoopers to conduct a financial study into the cost of the Government's data retention policy, and

(ii) the Government has not stated what the cost to the Australian public and to the telecommunications industry of its data retention policy will be; and

(b) orders that there be laid on the table by the Attorney-General (Senator Brandis), no later than noon on Tuesday, 25 November 2014 the:

(i) terms of reference for the PricewaterhouseCoopers study, and

(ii) any report provided by PricewaterhouseCoopers in the calendar year 2014 to the Government concerning the cost of data retention.

**The PRESIDENT:** The question is that notice of motion No. 517 standing in the name of Senator Ludlam be agreed to.

The Senate divided. [16:44]

(The President—Senator Parry)

Ayes ...................... 38
Noes ...................... 28
Majority ................... 10

**AYES**

Bilyk, CL
Bullock, J, W.
Dastyari, S
Di Natale, R
Gallacher, AM
Ketter, CR
Lazarus, GP
Lines, S
Ludwig, JW
McEwen, A
Milne, C
Muir, R
Peris, N
Rhiannon, L
Siewert, R
Sterle, G
Wang, Z
Whish-Wilson, PS
Wright, PL

Brown, CL
Cameron, DN
Day, R.J.
Faulkner, J
Hanson-Young, SC
Lambie, J
Leyonhjelm, DE
Ludlam, S
Ludgin, IJ
McLucas, J
Moore, CM
O'Neil, DM
Polley, H
Rice, J
Singh, LM
Urquhart, AE (teller)
Waters, LJ
Wong, P
Xenophon, N
Monday, 24 November 2014

SENATE

Question agreed to.

COMMITTEES

Wind Turbines Committee

Appointment

Senator LEYONHJELM (New South Wales) (16:46): I, and also on behalf of Senators Madigan, Day, Xenophon and Back, move:

(1) That a select committee, to be known as the Select Committee on Wind Turbines be established to inquire into and report on the application of regulatory governance and economic impact of wind turbines by 24 June 2015, with particular reference to:

(a) the effect on household power prices, particularly households which receive no benefit from rooftop solar panels, and the merits of consumer subsidies for operators;

(b) how effective the Clean Energy Regulator is in performing its legislative responsibilities and whether there is a need to broaden those responsibilities;

(c) the role and capacity of the National Health and Medical Research Council in providing guidance to state and territory authorities;

(d) the implementation of planning processes in relation to wind farms, including the level of information available to prospective wind farm hosts;

(e) the adequacy of monitoring and compliance governance of wind farms;

(f) the application and integrity of national wind farm guidelines;

(g) the effect that wind towers have on fauna and aerial operations around turbines, including firefighting and crop management;

(h) the energy and emission input and output equations from whole of life operation of wind turbines; and

Back, CJ
Bernardi, C
Birmingham, SJ
Bushby, DC (teller)
Canavan, M.J.
Cash, MC
Colbeck, R
Fawcett, DJ
Ferravanti-Wells, C
Fifield, MP
Heffernan, W
Johnston, D
Macdonald, ID
McGrath, J
McKenzie, B
Nash, F
O'Sullivan, B
Payne, MA
Parry, S
Ronaldo, M
Reynolds, L
Ryan, SM
Ruston, A
Seselja, Z
Scullion, NG
Smith, D
Williams, JR

Collins, JMA
Cormann, M
Conroy, SM
Abetz, E
Lundy, KA
Brandis, GH
Marshall, GM
Mason, B

NOES

PAIRS
(i) any related matter.

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

(3) That:

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

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

(c) a participating member shall be taken to be a member of the committee for the purpose of forming a quorum of the committee if a majority of members of the committee is not present.

(4) That 4 members of the committee constitute a quorum of the committee.

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

(6) That the committee elect as chair and deputy chair a member nominated by the minority parties and independent senators.

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

(8) That the chair, or the deputy chair when acting as chair, may appoint another member of the committee to act as chair during the temporary absence of both the chair and deputy chair at a meeting of the committee.

(9) That, in the event of an equality of voting, the chair, or the deputy chair when acting as chair, has a casting vote.

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

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

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

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

I seek leave to make a short statement.

The PRESIDENT: Leave is granted for one minute.

Senator LEYONHJELM: I understand that Senate resources are limited in relation to select committees. We acknowledge that. And I understand that at least one other select committee will need to be wound up in order for this to have the full amount of resources. We accept that that is the case. The worst case is that this will operate on limited resources until
March, when the inquiry into the activities of the Queensland government is concluded. Furthermore, if Senator Day is appointed chairman of the committee, he has suggested he may consider relinquishing his fees as chairman to contribute to the committee's costs.

**Senator FIFIELD** (Victoria—Manager of Government Business in the Senate and Assistant Minister for Social Services) (16:47): I seek leave to make a short statement.

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

**Senator FIFIELD:** The government supports the proposition that the commencement of the substantive work of the committee be delayed. We think that is a good approach, given the resources of the Department of the Senate. But I think it is also appropriate to acknowledge that, at the tail end of the last Senate, the opposition sought to establish a number of select committees—in effect, to bind the incoming Senate. We are still living with the consequences of those decisions by the opposition before the new Senate came into being. I think it is important that this chamber be mindful of the resources of the Department of the Senate to adequately serve the committees of this place.

**Senator MILNE** (Tasmania—Leader of the Australian Greens) (16:48): I seek leave to make a short statement.

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

**Senator MILNE:** I am very concerned about what is going on here. When this was reported last week, it was put in the paper that the government would support this committee, on condition that the crossbench voted to delete one of the other Senate committees. We cannot have longstanding procedures of the Senate and understandings of the Senate compromised in this way. We simply cannot do that.

*Honourable senators interjecting—*

**The PRESIDENT:** Order on my left!

*Honourable senators interjecting—*

**The PRESIDENT:** Order on my left and right! Senator Milne, you have the call.

**Senator MILNE:** Thank you, Mr President.

**Senator Ian Macdonald** interjecting—

**The PRESIDENT:** Senator Macdonald!

**Senator MILNE:** The point is: when the Senate establishes a committee and votes for a committee to be set up, then that is the will of the Senate. People may not like those committees. There are several that have been set up that I do not like.

**Senator Ian Macdonald:** But none with one government member.

*Honourable senators interjecting—*

**The PRESIDENT:** Order on my right!

**Senator MILNE:** Nevertheless, the Senate sets them up, and, once one is set up, the Senate should carry on the business of that Senate committee. To now have deals being done on the side with the crossbench to diminish others— *(Time expired)*

**Senator MOORE** (Queensland) (16:50): I seek leave to make a short statement.

**The PRESIDENT:** Leave is granted for one minute.
Senator MOORE: We acknowledge the deep interest that the senators have in this particular issue, and we note the intense notes of reference that we have on the Notice Paper. We do consider, though, that this issue could be effectively handled by the Senate Environment and Communications References Committee, and, in terms of the process, we understand—

Senator Ian Macdonald interjecting—

The PRESIDENT: Order on my right!

Senator Wong interjecting—

Senator Ian Macdonald: Are you talking about me interjecting? You never shut up, Senator Wong!

The PRESIDENT: Order, Senator Macdonald! Order! Senator Moore, you have the call.

Senator MOORE: We put on record that we believe that the issues could be effectively handled by the Environment and Communications References Committee and could be handled by that committee looking at their own workload and looking at the process into the future.

The PRESIDENT: The question is that notice of motion No. 503 moved by Senator Leyonhjelm be agreed to.

The Senate divided. [16:52]

(The President—Senator Parry)

Ayes ..................... 33
Noes ..................... 32
Majority ............. 1

AYES

Back, CJ
Birmingham, SJ
Canavan, M.J.
Colbeck, R
Edwards, S
Fierravanti-Wells, C
Heffernan, W
Lambie, J
Macdonald, ID
McGrath, J
Nash, F
Parry, S
Reynolds, L
Ruston, A
Seselja, Z
Smith, D
Xenophon, N

Bernardi, C
Bushby, DC (teller)
Cash, MC
Day, R.J.
Fawcett, DJ
Fifield, MP
Johnston, D
Leyonhjelm, DE
Madigan, JJ
McKenzie, B
O’Sullivan, B
Payne, MA
Ronaldson, M
Ryan, SM
Sinodinos, A
Williams, JR

NOES

Bilyk, CL
Bullock, J.W.
Collins, JMA

Brown, CL
Cameron, DN
Dastyari, S
Question agreed to.

MOTIONS

WestConnex

Senator RHIANNON (New South Wales) (16:55): I move:
That the Senate—
(a) notes that:
(i) the Federal Government has provided $1.5 billion in funding for the WestConnex motorway, plus an additional $2 billion in the form a concessional loan; and that this funding was awarded despite the lack of a detailed business case, including the assumptions behind the project's cost-benefit analysis, being made available to Infrastructure Australia or the public,
(ii) the WestConnex motorway, if built, will negatively impact residents and commuters across Sydney by increasing traffic congestion and air pollution; and the main beneficiaries of the project will be private businesses who will profit from new tolls while the public bears the financial risk, and
(iii) the Federal Government has not spent a single dollar on public transport projects in Sydney; and
(b) calls on the Federal and NSW Governments to abandon their plans to construct the WestConnex motorway and commit to building public transport in Sydney to minimise congestion, improve environmental sustainability and boost productivity.

Senator MOORE (Queensland) (16:56): I seek leave to make a short statement.

The PRESIDENT: Leave is granted for one minute.

Senator MOORE: Labor stands for the best solution to infrastructure bottlenecks. Labor favours neither roads over rail nor rail over roads. Labor stands for the best solution to congestion as recommended by experts. That is why we established Infrastructure Australia. Labor allocated funds to WestConnex strictly subject to infrastructure Australia's approval of
the business case and on the proviso that it be addressed to the major issue of people's access to the CBD and freight to and from Port Botany. The coalition's plan does neither, and Infrastructure Australia is still assessing the project's merit. Given that the Greens political party has backed the Infrastructure Australia model, we are surprised by this motion that seeks to supplant expert opinion and which, even if carried, will have no effect on this government. The motion also includes factual errors. The Greens political party has an unreasonable fixation against funding roads, just as the federal coalition has an unreasonable fixation against funding public transport. Labor supports the modal solution that gives community the best value.


The PRESIDENT: Leave is granted for one minute.

Senator RHIANNON: WestConnex, if it did proceed, would add to congestion in Sydney. It was very disappointing that, when Labor was in government, under the previous minister, Mr Albanese, funding for public transport in New South Wales—in his own state—was deeply limited. The WestConnex project has had many experts give advice that this is not the solution to Sydney's transport problems. Motions are very useful for the Senate to be able to express their point of view. It was an opportunity for Labor to put on record sometimes their stated concerns about WestConnex. They cannot walk on both sides of the road on this issue. Labor, in the constituencies that would be impacted if this road went ahead, with the pollution coming from the stacks, with the congestion coming onto local streets, go into the communities and speak about their concerns. But they continue to put money— (Time expired)

The PRESIDENT: The question is that notice of motion No. 509 standing in the name of Senator Rhiannon be agreed to.

The Senate divided. [16:59]

(The President—Senator Parry)

Ayes .................... 10
Noes .................... 52
Majority ............... 42

AYES

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

Hanson-Young, SC
Milne, C
Rice, J
Waters, LJ
Wright, PL

NOES

Back, CJ
Bilyk, CL
Brown, CL
Bushby, DC
Canavan, M.J.
Cash, MC
Dastyari, S

Bernardi, C
Birmingham, SJ
Bullock, J.W.
Cameron, DN
Carr, KJ
Colbeck, R
Day, R.J.

CHAMBER
Monday, 24 November 2014

SENATE 9083

CHAMBER

NOES

Edwards, S
Fawcett, DJ
Fifield, MP
Heffernan, W
Lambie, J
Leyonhjelm, DE
Ludwig, JW
Madigan, JJ
McGrath, J
McLucas, J
Nash, F
O'Sullivan, B
Payne, MA
Polley, H
Ronaldson, M
Seselja, Z
Sinodinos, A
Urquhart, AE (teller)
Williams, JR
Faulkner, J
Fierravanti-Wells, C
Gallacher, AM
Ketter, CR
Lazarus, GP
Lines, S
Macdonald, ID
McEwen, A
McKenzie, B
Moore, CM
O'Neill, DM
Parry, S
Peris, N
Reynolds, L
Ruston, A
Singh, LM
Sterle, G
Wang, Z
Xenophon, N

Question negatived.

Foreign Investment

Senator MILNE (Tasmania—Leader of the Australian Greens) (17:03): I move:
(a) notes:
   (i) the Free Trade memorandum of understanding signed between Australia and China, and
   (ii) that climate change, with its consequent global food insecurity, is driving governments to acquire
   land and water outside their own borders as sources of food supply; and
(b) calls on the Government to:
   (i) create a register of foreign ownership of agricultural land and water assets to continuously track
   overseas purchases,
   (ii) lower the threshold from $248 million to $5 million for consideration of the national interest by
   the Foreign Investment Review Board (FIRB) for purchases of agricultural land and water by a foreign
   private entity,
   (iii) legislate a stronger national interest test to be applied by the FIRB for purchases of agricultural
   land and water resources, and
   (iv) prohibit the purchase of agricultural land and water by wholly owned subsidiaries of foreign
   governments.

Senator CANAVAN (Queensland) (17:04): I seek leave to make a short statement.

The PRESIDENT: Leave is granted for one minute.

Senator CANAVAN: The coalition opposes this motion. The coalition has announced changes that we would make to the Foreign Investment Review Board processes. At the last election, the coalition announced that we would lower the screening threshold for foreign purchases of agricultural land to $15 million cumulative and that we would introduce an agricultural land register. This motion is not consistent with the government's policy approach. I note in particular that this motion has sought to legislate a stronger national
interest test. That is a misguided approach. It is commonly recognised that keeping the national interest undefined gives the Treasurer the broadest possible discretion to accept or refuse foreign investment proposals. For this reason, we oppose this motion.

Senator MILNE (Tasmania—Leader of the Australian Greens) (17:05): I seek leave to make a short statement.

The PRESIDENT: Leave is granted for one minute.

Senator MILNE: There was much fuss being made about the promise to have a free trade agreement with Australia and China last week but the issue here is on the sale of agricultural land and water in regard to wholly-owned subsidiaries of foreign governments. This is something Australia needs to be aware of in the context of climate change and it is quite wrong to say that you do not need a defined national interest test. New Zealand has a defined national interest test and it works very well.

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

The Senate divided. [17:06]

(The President—Senator Parry)

Ayes ...................... 13
Noes ........................ 46
Majority .................. 33

AYES
Di Natale, R
Lambie, J
Ludlam, S
Rhianmon, L
Siewert, R (teller)
Waters, LJ
Wright, PL

Hanson-Young, SC
Lazarus, GP
Milne, C
Rice, J
Wang, Z
Whish-Wilson, PS

NOES
Back, CJ
Bilyk, CL
Brown, CL
Bushby, DC
Canavan, M.J.
Cash, MC
Dastyari, S
Edwards, S
Fawcett, DJ
Fifield, MP
Ketter, CR
Lines, S
Macdonald, ID
McGrath, J
McLucas, J
Nash, F
O’Sullivan, B
Payne, MA
Reynolds, L

Bernardi, C
Birmingham, SJ
Bullock, J.W.
Cameron, DN
Carr, KJ
Colbeck, R
Day, R.J.
Faulkner, J
Fierravanti-Wells, C
Gallacher, AM
Leyonhjelm, DE
Ludwig, JW
McEwen, A
McKenzie, B
McRae, CM
O’Neill, DM
Parry, S
Peris, N
Ronaldson, M
Question negatived.

Mining

Senator WATERS (Queensland) (17:09): I move:
That the Senate—
(a) notes that:
(i) the Queensland Premier, Mr Campbell Newman, has announced that he will use public money from the sale, or long term lease, of public assets to build a coal railway for mining magnates,
(ii) Premier Newman has already announced that public money will be used to pay for dredging in the Great Barrier Reef World Heritage Area and dumping on the nationally significant Caley Valley wetlands near Abbot Point, and
(iii) Queensland's existing industries, our safety, our environment, including the Great Barrier Reef, and our very way of life are at risk from climate change which is driven by burning fossil fuels; and
(b) calls on the Federal Government to rule out allowing federal public funds to be used to pay for coal mines, railways or coal ports associated with the Galilee Basin.

Senator FIFIELD (Victoria—Manager of Government Business in the Senate and Assistant Minister for Social Services) (17:10): I seek leave to make a short statement.

The PRESIDENT: Leave is granted for one minute.

Senator FIFIELD: Since coming to office, the coalition has done more to protect Australia's Great Barrier Reef than any government before it, including the previous Labor-Greens administration. The ideology of the Greens would see all development of any kind brought to a standstill. The Queensland resource sector is merely their first target. The government is aware of the Queensland government seeking to co-invest in critical resource sector infrastructure and create approximately 28,000 jobs. This is a perfectly normal and responsible approach to encouraging investment and stimulating long-term economic growth. The Australian government is not currently investing public money in the development of these assets. The Greens have been calling for an end to the disposal of dredge in the Great Barrier Reef waters ever since the coalition took office. Now they are complaining about on-land disposal. One has to ask: where will it end?

Senator MOORE (Queensland) (17:11): I seek leave to make a short statement.

The PRESIDENT: Leave is granted for one minute.

Senator MOORE: Labor was not consulted about the wording of this motion beforehand. Labor recently announced a comprehensive plan for protection of the reef and, of course, supports real action on climate change—unlike the government. Passing motions in the Senate that have not been subject to prior consideration is not a substitute for proper management by relevant agencies of the many issues at play. The parliaments of the

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NOES

Ruston, A
Singh, LM
Smith, D
Urquhart, AE (teller)

Seselja, Z
Sinodinos, A
Sterle, G
Williams, JR
Commonwealth and Queensland have established agencies to manage planning and project selection, and they should be allowed to do their job.

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

The Senate divided. [17:13]

(The President—Senator Parry)

Ayes ..................... 12
Noes ..................... 41
Majority ................. 29

AYES

Di Natale, R
Lazarus, GP
Milne, C
Rice, J
Wang, Z
Whish-Wilson, PS

Hanson-Young, SC
Ludlam, S
Rhiannon, L
Siewert, R (teller)
Waters, LJ
Wright, PL

NOES

Back, CJ
Birmingham, SJ
Bullock, J.W.
Cameron, DN
Cash, MC
Dastyari, S
Edwards, S
Fawcett, DJ
Gallacher, AM
Ludwig, JW
McEwen, A
McKenzie, B
Moore, CM
Nash, F
O’Sullivan, B
Payne, MA
Reynolds, L
Ruston, A
Singh, LM
Smith, D
Williams, JR

Bilyk, CL (teller)
Brown, CL
Bushby, DC
Canavan, M.J.
Colbeck, R
Day, R.J.
Faulkner, J
Fifield, MP
Ketter, CR
Macdonald, ID
McGrath, J
McLucas, J
Muir, R
O’Neill, DM
Parry, S
Peris, N
Raldsonon, M
Seselja, Z
Sinodinos, A
Sterle, G

Question negatived.

MATTERS OF PUBLIC IMPORTANCE

Australian Broadcasting Corporation

The PRESIDENT (17:16): A letter has been received from Senator Moore:

Pursuant to standing order 75, I propose that the following matter of public importance be submitted to the Senate for discussion:
Mr Abbott's broken promise that there would be 'no cuts to the ABC or SBS'.

Is the proposal supported?

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

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

Senator BILYK (Tasmania—Deputy Opposition Whip in the Senate) (17:17): Over the course of last weekend thousands of people turned up to rallies across Australia, including 3,000 people at Sydney's town hall and another 2,000 at Federation Square in Melbourne. Rallies were also held in several other cities, including Newcastle and Adelaide, where, funnily enough, the member for Sturt, Mr Pyne, was conspicuously absent.

In my home state of Tasmania, 200 people turned up to a rally outside the ABC studios in Hobart, which was addressed by my colleague from the other place, Julie Collins, the Labor member for Franklin. I want to point out how the ABC cuts are going to hit Tasmania, just having mentioned that Ms Collins was there addressing the group. I am sure I heard Senator Abetz in question time say that nobody had lost their job. I presume he was maybe being a bit smart with words and forgot to add the word 'yet'. But it has been acknowledged that the budget cuts are likely to reduce ABC Tasmania's headcount by eight or nine staff and it is very likely that a small number of ABC News positions will be made redundant but that managerial and back office staff are expected to bear most of the pain.

In fact, ABC managing director, Mr Mark Scott, has already confirmed that the Tasmanian director's position held by Andrew Fisher will be made redundant. With local ABC radio bulletins being replaced after 8 pm by national bulletins and the Friday edition of 7.30 Tasmania being replaced by a national program, I do not think all augurs well for the ABC in Tasmania. The 2012 closure of ABC's Hobart TV production unit which was responsible for such great shows as Gardening Australia and Collectors had already removed all but one of Tasmania's TV production positions and that had cost 17 jobs. So now we know it is likely another eight or nine are going. Mr Scott did announce earlier that the ABC would lose 400 positions nationally, about 10 per cent of staff, in response to the $254 million cut imposed by the federal government. So for Senator Abetz to stand up and say that no jobs will be lost, I really hope he has done his homework and checked up on what is happening there.

Tomorrow there will be another rally on the lawns of Parliament House in Canberra. The message of these rallies is really simple: the Abbott government needs to keep its unequivocal election promise—and that was, 'no cuts to the ABC or SBS'. It is absolutely astounding that this government can deliver cuts of more than half a billion dollars to the ABC and SBS, and then claim that they continue to stand by the commitments they made before the election. Those opposite really must take the Australian people for mugs. They cannot seriously think that Australians will believe this government have not lied and blatantly broken their pre-election commitments.

But, whatever weasel words the Abbott government uses to justify their broken promises, the fact remains: a cut is a cut is a cut. I know some conservative commentators, and even senators in this place, who question the purpose of having a publicly funded broadcaster
competing with commercial providers. That might be a valid argument if the ABC was seeking commercial revenue or competing on a level playing field, but it is not. The line of argument that the for-profit commercial broadcasters would love to have a billion dollars a year subsidy is completely disingenuous, and ignores the reason for having an ABC and the important public service it provides. It ignores the point that a for-profit broadcaster could not fulfil the role that the ABC do because their commercial imperative is completely at odds with the ABC’s responsibilities.

Yes, commercial broadcasters would love to be subsidised by the government, but they exist for a completely different purpose to the ABC—that is, to make a profit from advertising revenue. They do not have the restrictions that the ABC has placed on it. The ABC exists to deliver on its charter, a charter which includes providing educational programming, reflecting Australia’s cultural diversity, promoting Australian culture and Australian performing arts, and providing independent news and current affairs. These functions may not be commercially lucrative, but they are certainly of value to the public interest. For example, the ABC’s news and current affairs function serves an important role in Australia’s democracy. Casting an informed vote relies on independent, unbiased information about the important issues that are shaping public policy. You see, producing news and current affairs can be used to inform the public, but it can also be used as an instrument to shape and influence public opinion.

There are three reasons why commercial news and current affairs cannot be trusted to be free of bias, why it is compromised by the profit motive. Firstly, commercial news needs to suit the interests of its advertisers. If a business is unhappy with the way their business is being reported, or the report is in conflict with some other commercial interest, it will not provide advertising revenue. Commercial news providers also like to present a view of policy issues that suits their own commercial interests, not just those of their advertisers. And, finally, some of the lengthy, intensive journalistic investigations that the ABC often engages in are just too costly to turn a profit—yet they are of great value to the public interest.

Having an entirely commercial broadcasting market would mean we would lose a number of Australia’s most popular and highly successful TV dramas. Sea Change, for example, an iconic Australian drama, was rejected by every commercial network before it appeared on the ABC. You see, commercial TV networks cannot innovate in the way the ABC does because it creates too much commercial risk.

Not only do Australians believe strongly in having a publicly funded, fiercely independent national broadcaster, but they overwhelmingly believe that our ABC does a good job at fulfilling this role. The ABC commissions an appreciation survey each year, which consistently shows, year on year, that Australians think their ABC performs a valuable role in return for the 10c a day they pay for it. In the latest survey, 85 per cent of Australians said that the ABC performs a valuable role, with almost half agreeing that it provided a ‘very valuable’ role. Seventy-eight per cent of Australians believe the quality of programming on ABC television is good, compared with 44 per cent for commercial television. Sixty-four per cent believe the quality of programming on ABC radio is good, compared with only 51 per cent for commercial radio.

It is interesting to note that, according to a recent survey of Tasmanian radio listeners, 936 ABC Hobart has the highest audience share of any of the radio stations in the south of the
state. The station's highest rating shows include Ryk Goddard's Breakfast show, Mornings with Leon Compton and Evenings with Helen Shield. And 80 per cent of Australians think the ABC is doing a good job of covering events happening in country and regional Australia, compared with only 45 per cent for commercial television, radio and websites.

While the Liberal member for Sturt, Mr Pyne, obviously recognises the value of the ABC to his constituents, I am utterly amazed at the hypocrisy of his online petition. When the ABC decided to cut production staff in Adelaide as a result of the government's savage cuts, Mr Pyne started a petition against the closure, which garnered 2,000 signatures—but I must admit that none of the signatories were very complimentary. Given the fact he is a member of the cabinet that cut hundreds of millions from the ABC, you have to ask yourself: who is he trying to fool? Mr Pyne described the ABC's decision as 'an act of political vandalism', but the true vandalism is the savage cuts that the government is making to the ABC.

Of course, the sheer irony of Mr Pyne's campaigning against the consequences of his government's cuts is not lost on those on this side of the chamber or to the people of Adelaide. Mr Pyne's argument that Adelaide's TV production unit should be quarantined from the Abbott government's savage cuts is the height of self-interest and he should be absolutely ashamed of himself. Nevertheless, I would encourage anyone who opposes Mr Abbott's cuts to the ABC to have a look at Mr Pyne's petition and use it as an opportunity to tell Mr Pyne what you think of the government's broken promise, like so many other people have.

It is a good thing for the ABC that it is not only popular but also held in high esteem by Australians. We know that having independent reporting is inconvenient to the coalition, who are generally treated more favourably by the commercial media. We know that the coalition would like to get rid of the ABC but they cannot, because it is an institution loved by Australians—a cultural icon, a valued public service and a part of our lives which many Australians wake up to every morning or go to bed to every night.

These cuts are part of an ongoing war the conservative side of politics has been waging against the ABC for decades. It is a war the Howard government waged when they appointed their mates such as Michael Kroger, Janet Albrechtson and Keith Windschuttle to the ABC board, when they removed the position of staff-elected director from the board and when they initiated an efficiency review into the ABC in 1996 and then cut its funding, contrary to pre-election promises. Ah, that sounds familiar. (Time expired)

Senator RUSTON (South Australia—Deputy Government Whip in the Senate) (17:28): In listening to the contribution of Senator Bilyk, it was quite interesting to hear the many comments that she made about the ABC being different, not having commercial revenue opportunities and bias et cetera. But I just wonder whether the difference of the public broadcaster means that it is somehow immune from being efficient, effective and accountable. I wonder, when the ABC did its study to find out what Australians thought of their ABC, whether it asked those people in the study whether they believed that it was okay for the ABC not to be as efficient as it absolutely could be. I am sure it did not. If it had, I am sure that the Australian public would have said that, whilst they love their ABC—as I am sure everybody in this place does—they still believe that it should be running as efficiently as it possibly can be.

It is interesting, when we are talking about the efficiency, the effectiveness and the accountability of the ABC, that, last week, when I was questioning Mr Scott in relation to the
ABC and how it determined the priorities for the allocation of its resources and how it measured whether it was actually achieving the objectives of its charter, Mr Scott referred me to the strategic review—which I had already had a look at, but I thought, 'I'd best go back and have another look at it to make sure that I haven't missed something.' I think there is a real issue here, and that is that the ABC, for all the billion dollars a year that it gets from the government, really does not have any defined, transparent methodology that is published, so the public can see it, as to how it actually determines how it allocates its resources but also to measure against its ability to achieve its charter.

So I cannot see how on that basis the board of the ABC is really in any position to be able to be measuring the output of the organisation when it does not actually have anything against which to benchmark. If you have a look at the strategic review and the strategic plan the ABC has a number of strategies, but they are all motherhood type strategies: 'Audience focused', 'High quality', 'Innovative', 'Values based', 'Responsible', 'Efficient'. But, really, in the greater scheme of things, what does that actually mean unless you have something tangible by which to measure it?

It was interesting today reading in *The Australian* comments of the former Labor Premier of South Australia, Mr John Bannon. For the record, I thought it was quite interesting that Mr Bannon made this comment:

The lesson is that the board must not be conned by a management offering very popular programs in the hope that the government will back down.

Mr Bannon, I am assuming, is meaning to cut very popular programs.

Nor must allow centralisation is purported economies to rule. Instead of what being at what can be cut "out there" and brought back to Sydney Central, it should be looking the other way. What can be outsourced to regional officers with capacity, more efficiently, cheaply and with real commitment to local production and capacity?

It has to insist on this principle and not just roll with the management offerings. That way we'll get a better, more robust, truly national broadcaster.

That from the Hon. John Bannon, former Labor Premier of South Australia.

The other thing that has been quite interesting in this debate is the debate about efficiencies versus cuts. The minister earlier this year sought to have conducted an efficiency study to determine what opportunities there were in the ABC and the SBS to be able to make the organisation run more efficiently and to find savings. That review was undertaken by Mr Lewis and came back with a quantum of savings which Mr Lewis and his team believe that the ABC and SBS could implement without actually taking away from the delivery of programs.

It is worth noting that over the next five years the ABC will receive $5.2 billion from the taxpayer as opposed to $5.5 billion that was the budgeted number. We are talking about $300 million in total over five years out of a $5.5 billion budget. That in itself raises a number of questions about Mr Scott's statement last week and Mr Scott's statements today. I will read you from a statement that Mr Scott has posted online in which he says:

Because the cuts are back-end loaded, in the latter years of the accumulated impact to the ABC is over eight per cent a year.
I don't know whether you studied maths or economics at school, Acting Deputy President Bernardi, but I would suggest that $300 million over five years out of a budget of $5.5 billion, even at an extraordinary stretch, does not go anywhere near being eight per cent. So I think Mr Scott needs to be a little more honest when he is using these figures, because it does not matter which way you look at it, there is no way in the world, no matter what you add in or how you look at it, that the budget changes are eight per cent. In fact, I cannot make them reach five per cent. So we do need to be very, very careful about the misinformation that is being put out there in the public space by this particular issue. Just remember that nobody is asking Mr Scott to do anything more than to deliver the efficiency savings measures that have been identified in an independent report commissioned for him. I am sure he has probably got a report he has commissioned himself in his bottom drawer that will tell him ways that he can get more savings, including the savings that have not even been discussed about the savings that could be achieved from transmission costs.

The efficiencies that came out basically said that the ABC can be more productive, can get the same or even ideally a bigger bang for slightly fewer taxpayer dollars. It was also interesting to note that last Thursday during the estimates hearing the SBS representative, Mr Khalil, made the comment that the SBS would be absorbing its savings and efficiency measures without having any effect on production, content or any job losses. So I think it is quite interesting that we have a completely different approach being taken by the ABC in relation to trying to find these efficiency savings.

I do not think anyone can credibly argue that the public broadcaster should be exempt from finding savings. I don't even think those opposite could come up with any justification for doing that. It is really quite interesting that a number of commentators that have been very great supporters of the ABC are all coming out and making the comment that the ABC really does need to be reasonable about this. In the words of Louise Evans, who is a former manager at ABCs Radio National and a former managing editor at The Australian:

“Pockets of the ABC have been allowed to get too fat, flabby, wasteful and accountable. The same efficiencies and workplace practices that are the norm in corporate Australia need to be front and centre at the ABC so that it remains a strong, independent voice …”

Everybody seems to think that there is nothing wrong with the ABC becoming more efficient, apart from perhaps Mr Scott. The real tragedy, I suppose, of this is this is just another step along the road of centralisation. Currently 50 per cent of the ABC staff already work in Sydney. These changes that Mr Scott has put on the table today in relation to closing the Adelaide studio, getting rid of the 7.30 Report, cutting five radio stations in rural and regional Australia will just serve to increase that city-centric focus of the ABC. It is tremendously sad because the name of this organisation is the Australian Broadcasting Corporation. It is not the 'Sydney Broadcasting Corporation'. It is time that the ABC started to show a little bit more transparency about some of its decision making and also started to behave a little bit more responsibly when it comes to being an efficient and effective organisation.

I must say though, in closing, that it was very heartening to hear Mr Scott put on the record on Thursday night that he would prioritise rural and regional Australia, and today in his public statement he has come out and said that he is intending to create a regional division. That is obviously something that is terribly important to people who live in rural, regional and remote Australia, because often the ABC is their only form of communication and news that they are...
able to get, despite Mr Scott not wanting to accept the fact that the ABC in some instances is
the broadcaster of last resort. It is all well and good to have all the nice things that happen in the
metropolitan and urban marketplace, but for people who live in rural and regional Australia
the ABC is the broadcaster of last resort. I think Mr Scott would do well to remember that.
The other thing that was obviously of great relief to those people who live in the country was
that Mr Scott confirmed that the ABC would continue to be the emergency broadcaster, and
that there was absolutely no intention whatsoever for that service to be reduced, cut or
otherwise. There were a couple of good pieces of news in this but, sadly, Mr Scott still seems
to believe that his organisation is immune from having to make efficiency savings.

Senator LUDLAM (Western Australia) (17:38): I think the only thing sadder than the axe
that has been brought down on public broadcasting in the last couple of weeks and the
confirmation that we have seen today about exactly how that is going to wash through is the
shameless, bug-eyed hypocrisy of coalition senators lining up to condemn the consequences
of the cuts that they voted for. Are you people completely out of your minds? It is absolutely
unbelievable!

Let us talk a little bit about the meaning of the word 'efficiency' because Senator Ruston—
and I suspect Senator McKenzie is going to jump up and do the same thing shortly—pointed
out that from a purely commercial point of view the ABC is inefficient. Senator McKenzie is
not going to say that—I probably should not pre-empt what other senators are going to say.
But this idea that the ABC should just knuckle down and behave like a commercial
broadcaster kind of gives the game away. The fact is that from a purely commercial point of
view it is inefficient to cover local sport, it is inefficient to maintain small regional bureaus in
places like Wagin or Morwell, it is inefficient to maintain dedicated state current affairs
reporting and it is probably really inefficient to put well-paid and well-resourced investigative
journalists into the field. These things from a purely commercial point of view are inefficient.
That is why we have public broadcasters to provide those things—because the private sector
will not.

If you want to know what cutthroat commercial efficiency looks like, have a look at how
commercial players have reacted to changes in the broadcast environment. They have reacted
by closing down dozens of regional radio bureaus because they are expensive and inefficient.
Now you get kids sitting in studios in Sydney reading news headlines that have been faxed to
them from local newspapers—also likely produced a long way from regional towns—because
that is more commercially efficient than maintaining people in those towns in the first place.
We also see incredibly superficial treatment of current affairs. It is expensive and,
commercially, probably a bit inefficient to maintain the kind of world-class current affairs and
investigative work that we have trusted the ABC and the SBS to do. It is not impossible—and
we do obviously have great journalists working in commercial bureaus around the country
and upstairs here in the gallery—but it is difficult. It requires commitment and from a purely
commercial point of view it is inefficient. That is why we see some commercial current affairs
programs have gone down this degraded rabbit hole. It is like watching the visual equivalent
of junk mail. It does not really count as current affairs any more. It is a lot cheaper to produce
than putting top-notch investigative journalists on planes and sending them around the world
to hot spots, or having them poke their noses into places where powerful people would
probably prefer they not go.

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CHAMBER
If you want efficiencies, look at what has happened in the corporate sector—mass sackings, closures of bureaus and the disappearance of decent investigative work. Are those really the kinds of efficiencies that you want to pursue? You then come into this place and line up with surprise. Mr Pyne put out a press statement saying:

I am deeply disappointed in the ABC's announcement today about the closure of South Australia's production facilities …

What did you expect? Senator McKenzie is seeking assurances from the ABC that they will not cut services in her backyard. Good luck, Senator McKenzie; I wish you well. I suspect you are on a hiding to nothing. If you seriously did not expect that this was going to happen, I am not sure that it is going to be possible to help you. But marching in here and railing on behalf of your constituents about how Mr Scott should not be centralising things—

The ACTING DEPUTY PRESIDENT: Address your remarks through the chair, Senator.

Senator LUDLAM: I certainly will, Mr Acting Deputy President. Thank you for the reminder. This has been going on for years. There was the closure of Hobart, for example, and the gradual leeching and running down of production capacity in Western Australia, which cost a lot of good people their jobs. This has happened right around the place. In fact, I think Adelaide really is the only place left outside the Sydney-Melbourne axis that has maintained dedicated production capacity. Do you know why? Because centralisation is efficient, according to the way that these calculations are made. On the raw spreadsheets it is less efficient to have people right around the country doing this kind of work. That is why we maintain public broadcasters in this country—because the private sector really has to pay attention to those kinds of efficiencies, and that is why we see the hollowing out of regional production.

If you are so desperate to operate the ABC and the SBS as efficient commercial broadcasters, I invite coalition senators to quit their Senate positions and to go and get jobs in the private sector and to leave people who care about public broadcasters and public institutions to run those things. Quite clearly you are more interested in running these institutions into the ground. Quit your jobs in the Senate running public broadcasters and go and find yourselves work in the public sector. I am sure they would love to hear your views on efficiency out there. Leave the ABC and the SBS the hell alone in the meantime.

Senator GALLACHER (South Australia) (17:43): We are debating this matter of public importance today on the ABC and SBS. It is a pretty sad day for the ABC's workers in South Australia, and I am going to take a very parochial view in respect to this. The Prime Minister made an election commitment stating that there would be no cuts to education, no cuts to health, no changes to pensions, no changes to the GST and no cuts to the ABC or SBS. He has reneged on all of those commitments—absolutely reneged on all of those commitments. I suppose, to the credit of the ABC, they have highlighted that. I think that fundamental to any democracy is freedom of the press and having a public broadcaster that has the breadth and depth of experience to accurately portray to millions of listeners the situation in this country.

It is absolutely extraordinary that, on top of the efficiency dividend, there are further cuts to the ABC. You could take the very biased view that it is the coalition government getting back at critics. I certainly do not agree with everything the ABC present to the population, but I respect their right to do that—and I think it is a very important thing to be doing. When we
live in a society where people are reading less and they get more through their ears and their eyes than they do through sitting down reading documents and newspapers, there is a very important role to play in balancing the prejudice that occasionally comes from some sections of the media.

There is no doubt that there have been times in history where a certain large press organisation has backed either a Labor government or a Liberal government and they sail on those fair winds that they see in the population having the support of one or another position. But the ABC seeks to be balanced. It is critical of Labor governments, it is critical of Liberal governments, it is critical of Greens party members, it is critical of PUP members and it is critical of National Party members. It attempts to put some balance into the equation.

On South Australia, quite ironically, I do agree with Christopher Pyne and his call for the last production unit outside of Sydney and Melbourne—which is Adelaide—not to be cut. But, very interestingly, I listened to his contribution in the debate in the other place just after question time and the ABC did not get a mention. All of the alleged sins of the previous government got a mention, but the ABC did not get a mention. It is quite ironic that, on top of Holden and on top of the discontent around submarines, we now have another cut to South Australian jobs. Mr Pyne and his coalition colleagues should hang their heads in shame for allowing their leadership to continually attack South Australian jobs.

As senators for South Australia we should be standing here protecting South Australian jobs. Extremely good work is done in South Australia by those good journalists, production workers and backroom staff in the ABC, and we should be standing meekly by while this economic rationalist debate is thrown about. We should be honing in on the defence of the institution of the ABC and, in particular, the South Australian component of that. I have had the privilege of being duty senator for Grey, and I know how much those rural constituents rely on the ABC for radio news, for Landline and for the ABC news in the evening. Any attempt to take information away from people, to reduce the flow of information and to reduce the balance in the argument in the media by cutting their budget, is an incredibly bad step for any democratic country.

The ABC is an institution which is worthwhile supporting. It is obviously worthwhile working for, as people compete to work for it. It may have an efficiency dividend imposed upon it, but to have savage cuts imposed on top of that dividend is truly remarkable, given that the Prime Minister of this country stated that 'there will be no cuts to the ABC or SBS'.

Senator McKENZIE (Victoria) (17:48): The hypocrisy! The level of debt that was left and the assumptions underpinning those from the other side who have spoken on this particular MPI are absolutely breathtaking. The assumption is that we on this side do not appreciate public broadcasters and do not appreciate the substantial contribution that a public broadcaster has made over 80 years to our national identity, serving particularly rural and regional communities where others have not been before. They let us know what the weather is going to be so we know when to put the crop in. They let us know about community events and how the national agenda will play out at the local level. To make the assumption that we do not appreciate that in our local communities is an absolutely joke.

There is a lot of community concern about the reforms to the ABC and SBS. It means difficult decisions, Senator Ludlam—difficult decisions that you were never prepared to make. You are happy for Indigenous programs to have an efficiency dividend. You are happy
for education departments to have a dividend. You are happy for defence departments to have a dividend. But you are not happy for the ABC and SBS to have to be like everybody else across the whole of government and actually be subject to contributing to pay down the absolute mess that you left us.

Change is never easy, but it is almost always necessary. The taxpayer spends more than $1 billion a year on the ABC and the taxpayer is entitled to demand value for money. However, people are less concerned about the dollar amount given to the ABC and far more interested in the level of service that it provided to them and their local community. The government and the communications minister, Malcolm Turnbull, have repeatedly stated that they remain committed to maintaining the health and vibrancy of the ABC and SBS but that it must be financially sustainable.

These are choices, and Mr Scott made that point in estimates last Thursday—it is about prioritisation and it is about choices as to how to fulfil their charter obligations in the most efficient manner. For the people the Nationals represent that means the health and vibrancy of services to people living in regional Australia—principally, ABC local radio and, vitally, emergency broadcasting services. I note in Senate estimates on Thursday that, when I questioned him on this, Mr Scott was quite flippantly about to say, ‘Oh, Senator, we can’t actually rule in or rule out. We’ll wait until Monday when I make the announcement.’ The fact is that that was generating very real fear, particularly in regional Victoria, around the provision of the emergency services program. He then very, very quickly decided that that ‘was all in the basket’.

So I do not make any apology for putting all my efforts into ensuring that ABC management and the board maintain their regional footprint—and I am buoyed by Mr Scott’s public declarations of a regional focus, because it is about prioritisation as a national broadcaster. As a former member of the Senate Environment and Communications Legislation Committee, I have had the privilege of being able to question ABC management in Senate estimates over a number of years. ABC Managing Director, Mark Scott, has repeatedly assured me that the ABC’s role as an emergency broadcaster is not under review. But I think his other answers over a period of time have been less reassuring about his commitment to regional Australia, which is why I am buoyed by his statement today.

He did not seem to have a lot of information on hand about local radio in regional Australia and what it costs. In May estimates, I asked Mr Scott how many of the ABC’s 4½ thousand employees worked in regional offices. He could not tell me. Apparently it is 501. In estimates last week, I asked Mr Scott how much of the ABC budget goes to local radio—western Victoria, central Vic, Bendigo and Ballarat et cetera. Mr Scott said he would have to check that. I said: ‘Well, let’s look at trends. Of the $1 billion that Australians give to you as the national broadcaster, has the amount you have actually invested increased over time into local radio?’ And the answer I got was, ‘No, I think the amounts have actually remained static.’ So they have not been investing in the areas that count as a national broadcaster, rather they have been doing exactly what Senator Ludlam said.

And they have been centralising—centralising!—to Sydney. That is exactly what Mr Scott said—

The ACTING DEPUTY PRESIDENT: Through the chair, Senator McKenzie.
Senator McKENZIE: that in a drive for efficiency, they have been centralising. And where have they been centralising? To Adelaide? To Tasmania? To Perth? To regional Australia? No. They have been centralising to Sydney. Today was a classic case of where the options were available—in fact, the options were even laid out for them where they could find efficiency measures—but it went to Sydney. They do not want to do that.

Mr Scott also talked about local radio stations in regional areas. I asked him about staffing costs, because as the footprint gets bigger we collapse local radio into each other, and why we needed to do that. He could not tell me why because the ABC does not keep central records of staffing areas. It is a little hard to look at your business and make serious decisions about efficiencies in the business if you do not actually record the details of how you are doing business, so I think there is a way to go on that. The vagueness is deeply worrying and gives the impression of a lack of transparency in how the resource allocation, via the taxpayer, marries with the charter obligations of the ABC in its role as the national broadcaster.

As Minister Turnbull said in his headland speech, we need:

… more granular detail on where the ABC … spend their money and how it relates to their charter obligations.

The minister said:

The best cure for suspicion in sunlight.

I could not agree more. Without that sunlight, we are left believing ABC management see regional broadcasting as an annoying distraction from the more exciting areas of prime TV and current affairs and competing in city markets with yet another fabulous brekkie program. But it is not good enough: the ABC charter is to be a national broadcaster and not just another Sydney or Melbourne network.

Government, as I said, identified a variety of options through the efficiency review. The back office or support services function could generate $40 million and make 150 less staff potentially redundant. That was not an option taken. Savings by changing the way broadcasters negotiate the transmission contracts could save $30 million over 10 years. Savings could be made from selling properties: the building that is a car park and for costume storage—that is, not core production facilities—in, oh, hang on, North Sydney is worth around $20 million. There may be another $40 million available in implementation costs, which is why there is a savings program spread over five years with zero money actually required in year 1. It is also worth noting the ABC has 45 senior presenters and managers earning more than $200,000 a year, which is more than 10 per cent of their total staff. The government is confident there is money available without impacting on programming to meet implementation costs and that the long-term gains from modernising the business far outweigh any one-off implementation costs.

I note that today the managing director of the ABC did announce that five regional radio stations would be closing—one in Morwell in my home state. I want to go to some press about that, where a regional ABC source said:

… management's decision to shut down the Morwell studio was a "big mistake" that showed little understanding of how many major news stories were generated in the Latrobe Valley during the past year alone.

"Clearly this decision was made in Sydney," the source told Fairfax Media.
"It doesn't make any sense. For Gippsland, It's where most of the news comes from, like the courts. The power stations are there, and what happens if there is another … mine fire?"

Too Sydney-centric seems to be the recurring theme, I could not agree more.

Considering Mr Scott says savings are coming from back office, there should be no redundancies in regional Australia since ABC workers in regional Australia are all on the front line. It is worth noting the comments of ABC Chairman, James Spigelman, as he endorsed his managing director's plans. He said:

The initiatives outlined by Mr Scott comprise a carefully considered response to the twin challenges of technological change and reduced funding. We will keep a sharp eye on Mr Scott's plan for the ABC. It would not have been easy for him to look at the business and work out which areas he was going to prioritise to find efficiencies in and I hope he has chosen to balance competing issues accordingly.

Whether it is a local weather report, local issues, emergency broadcasting announcements or community events ABC radio has played a core role in country communities for over 82 years and should not be cut by the board or the managing director. While I would urge them to appreciate the important role that the ABC plays in our environmental, economic and social wellbeing, I also absolutely support the government's role in getting the budget under control.

Senator XENOPHON (South Australia) (17:58): My time is very brief, but I can indicate at the outset that I am a great friend of the ABC but I have become an enemy of the ABC management that have made these decisions that are completely unfair, particularly to the so-called BAF states—to Queensland, to Tasmania, to South Australia and to Western Australia. John Howard used to talk about core promises and non-core promises. The government may consider this a non-core promise not to cut the ABC, but the ABC is fundamentally important. It goes to the core of the identity of communities around the country in the work that it does in giving us program diversity and in being a unifying force for the nation in its extensive coverage. Whether you agree or disagree with the ABC, it is an important independent broadcaster.

The other thing is that the government's cuts go way beyond an efficiency dividend. Do they include, for instance, the redundancy payments that will be made? That to me is unclear therefore the cuts are much deeper than that.

Mr Acting Deputy President Bernardi, I am in the delicious position where you cannot respond to what I am going to say: I know you are a big fan of education minister Christopher Pyne and I just think it is a bit cute for Minister Pyne to say that he has got a petition to get people to sign up so they can oppose the cuts to the ABC production in South Australia. I suggest Minister Pyne direct his energies to getting his cabinet colleagues to support him on this, not getting a petition which is a bit of a political stunt—and I know a thing or two about stunts. That is a stunt.

Let's go to the managing director, Mark Scott's announced cuts to the ABC. They have been a long time coming, but that has not softened the blow. Mark Scott has had it in for the Adelaide production unit of the ABC for many years, despite the fact that it is lean. It is efficient. It is creative, and they have just had a ratings blockbuster with Countdown—two episodes with something like an average of 1.2 million viewers for each episode, and a great testament to the skill, creativity and efficiency of that ABC production unit.

Mr Scott cannot choose how much the ABC is cut; however, he can choose where the ABC bleeds and he has made some very bad choices in relation to that. It is now clear that the ABC
management intend to axe the last remaining half hour of ABC state based current affairs television left on our weekly schedules. That makes a big difference to the states and territories outside Sydney and Melbourne. It makes a difference having that local content—I take it back: I think that what Quentin Dempster is doing in New South Wales is important in terms of state coverage. What is happening in Victoria is important in terms of state coverage. It means that it will be centralised.

Mark Scott has an obsession with centralising the management of the ABC and its resources. That is why I will be pushing for a Senate inquiry in relation to the whole issue of the ABC cuts and pushing to change the ABC charter so that it does reflect the cultural and regional diversity of this nation. Cutting the ABC in Port Augusta is a disaster when you consider it is such an important part of this country—the crossroads of Australia are going to lose their ABC outlet in terms of its bureau.

It is interesting that the latest ABC annual report reveals that New South Wales now counts for 51 per cent of all ABC staff while the proportion in Australia has slipped from eight per cent to 6.9 per cent over a decade.

To the ABC Board members, some of whom were too busy to see me: I will be doing my very best to have you appear before a Senate inquiry about the ABC and how you have gutted production in the states. Of course the government must be held to account for their cutbacks, but the ABC board must also be accountable. (Time expired)

**Senator POLLEY** (Tasmania) (18:02): I rise today Mr President to say: 'Shame on those opposite.' I am proud to be a friend of the ABC. It is do disappointing to sit in the chamber and hear people from the National Party come and defend this government's terrible record when it comes to broken promises when they promised before the last election that there would be no cuts to the ABC and SBS.

What do we have this afternoon? Senator McKenzie comes in here week after week espousing that she speaks for rural and regional Australia. She has let them down and let them down once too often.

Shame on the Abbott government for forcing the ABC to cut over 400 jobs—and before Christmas, Mr Acting Deputy President. I once referred to the former Prime Minister Mr Howard as Mr Scrooge. He is back in force in this government again this Christmas. 'How low can you go?'—I think this government should take that slogan to the next election. That is what they are: a government of the lowest-common denominator.

Today is a sad day not only in the history of our national broadcaster but, more importantly, in the history of our nation—a day where the ABC has been forced to cut 10 per cent of its workforce. Over 400 people will lose their jobs across the country. The 400 people have families and those 400 people at the ABC are the latest victims of Tony Abbott's lies.

I am a student of history, so let's look briefly back at this government's shameful record on this issue.

**Senator Ronaldson:** On a point of order: I was a bit slow, Senator Polley. You know you did the wrong thing, and perhaps I will ask you to withdraw.

**Senator POLLEY:** Mr Abbott went to the election promising 'no cuts to the ABC and SBS.' He later announced cuts to the ABC and SBS. Tony Abbott lied to the Australian people. There is no escaping that fact, but those opposite will try.
In the last week, the communications minister—

The ACTING DEPUTY PRESIDENT (Senator Bernardi): Senator Polley, I am sorry to interrupt. You have just repeated the statement that Senator Ronaldson suggested you withdraw. It is inappropriate and unparliamentary, so I would ask you to withdraw that statement.

Senator POLLEY: Mr Acting Deputy President Bernardi, I apologise for not referring to Mr Abbott with his correct title, but Mr Abbott lied to the—

The ACTING DEPUTY PRESIDENT: No, you have referred to Mr Abbott in a way which is most unparliamentary and I would ask you to withdraw that.

Senator POLLEY: Thank you. I withdraw, but the Prime Minister, leading into the last election, promised the Australian community that there would be no cuts to the ABC and no cuts to SBS, and he did that—along with so many other cuts that he gave a commitment before the last election. Commitment was given at that time and then, as soon as they got back into government, they made those cuts. Surely, that is lying to the Australian community and that is at least how the community sees it.

Last week the communications minister, Malcolm Turnbull, and the finance minister, Senator Cormann, embarrassed themselves beyond belief trying to defend the impossible. People do not like liars, but what they hate more is when people lie about a lie, and that is what Mr Turnbull and Senator Cormann have done.

When you break a promise, you do the responsible thing and be honest about why you broke the promise. You do not try and cover up a lie with another lie, which is what those opposite have tried to do—and failed badly, I might add.

This government has lied and misled the Australian people about cuts to the ABC and SBS, about their promises to also not cut health, education spending or pensions in this country. On every one of those counts, they have failed the honesty test. They have cut education. They want to have further cuts to higher education. They have cut health, and we know they have changed the pension system, which is going to have a devastating effect on the aged-care sector in this country.

I do not usually say favourable things about Mr Abbott's predecessor, but I think I mentioned before that Mr Howard has at least one thing in his favour, and that is he is a politician of conviction. He is a man of conviction. I have to say this Prime Minister, whom I would have thought was someone aspiring to follow in Mr Howard's footsteps, has failed miserably.

Earlier this morning the Managing Director of the ABC, Mr Mark Scott, was forced by the Abbott Liberal government to outline how the national broadcaster would find $254 million in savings over five years. Mr Scott informed staff of the ABC about the impending redundancies and changes coming to the ABC. I would like to read a part of the statement sent to ABC staff across the country, because that is who we are thinking about here today: those who are going to be directly affected and those in our community who rely on the ABC and SBS in this country.

In charting this new course, my thoughts go out firstly to those who face losing their jobs. As other companies in the media sector have found, structural change can have painful personal consequences.
We anticipate that more than 400 people – close to 10% of our ongoing workforce – face potential redundancy as we adjust our activities…

We regard the changes as vital to securing the long-term health of the organisation but I acknowledge that is no comfort to those who will lose their positions.

It is sad, and it is not only the ABC which will be forced to make employees redundant; the SBS has also been asked to find $53 million in savings over the same period.

We all know that ultimately our public broadcasters should never have been put in this position. They should not have been forced to make people redundant at any time, let alone less than a month before Christmas. We on this side know that those on the other side are forever attacking the ABC. It has been part of their mantra that they are going to do whatever they can to undermine the national broadcaster. But Mr Scott was forced to make people redundant in order to secure the viability of the national broadcaster for the future because the government unnecessarily ripped funds away from it. This was all unnecessary and not called for.

At the weekend it was confirmed that Stateline would not be coming back next year, replaced by a Friday edition of 7.30. This morning Radio National's Bush Telegraph tweeted that it would stop airing at Christmas. This is really sad. These productions are quality programs which Australians love. Among the other high-profile cuts are the Adelaide TV production studio, which will close. Six other TV productions in smaller cities will also close, and production will be based in Sydney and Melbourne. Once again rural and regional Australia will be directly affected. Regional radio bureaus will be closed in Gladstone, Port Augusta and other places. Sports coverage from across the country and internationally will also be scaled back, and I bet my bottom dollar that it will be women's sport that will get to the cutting floor. Women's sport, when we have been working so hard to get it the recognition that it deserves, will be cut. Further, the ABC foreign bureaus will be reshaped and a new bureau commissioned in Beirut.

At this time there are many regional towns that do not know whether the ABC will be able to function as it does today. Will TV productions be closed in my home state of Tasmania? There is little left there as it is. I do not know. Will radio production be severely downsized due to staff cuts? We do not know. Nobody knows. But what we do know is it is this government's agenda to take as many resources as they possibly can to disadvantage the national broadcaster because that is part of its mantra. It is part of its DNA.

I do not know how many positions will be lost in my home state of Tasmania, but obviously I hope that there are very few, if any at all, because we in rural and regional Australia, particularly in my home state of Tasmania, value the independence of the ABC. These cuts are vicious and will affect our national broadcaster unnecessarily. Such cuts will have a significant impact on regions such as my home state, as I said. They provide vital information to the community. The ABC provides a voice for the community and a voice for Australians who do not usually have a voice. It provides national and community services.

The ABC does not just provide news and current affairs but also provides at times community service announcements and emergency bushfire announcements. Forget about Peppa Pig and Bananas in Pyjamas; the ABC in certain circumstances does save lives. We need a national broadcaster that provides an unparalleled service to the people of Australia. It
should not be compromised by those opposite. Australians deserve a vibrant ABC with the funding to thrive and remain commercial free.

These are truly dark days in our country’s history because everything in this country that makes our country great is under attack by this government, which will cut anything to improve its own bottom line. It is all about them saving face. Shame on those opposite. Shame on them for not having the heart or any vision for this country. Not only do they have no heart or vision as far as the ABC and SBS are concerned; as I have said earlier today in this place, when it comes to aged care we know that that side of the chamber have gone missing. We have had an assistant minister who is asleep at the wheel. It is just a shame that the Minister for Communications did not stand up for the ABC and did not stand up for rural and regional Australia. I put shame on the Nationals in particular because they espouse to be representing rural and regional Australia. *(Time expired)*

**Senator McGrath** (Queensland) (18:13): It is another day, so it is another matter of public importance and another display of rank hypocrisy from the Australian Labor Party. If anyone in this place knows anything about broken promises, it will be our friends in the Labor Party. Let’s talk about Anna Bligh, Premier of Queensland, at the 2009 state election. The Labor Party and Anna Bligh said they would not have asset sales. What did they do? Got re-elected and had asset sales.

Senator Polley interjecting—

**The Acting Deputy President (Senator Bernardi):** Order, Senator Polley.

**Senator McGrath:** Let’s talk about Kevin Rudd. Let’s talk about the former Prime Minister. He was going to be an economic conservative. He was anything but an economic conservative. He got into power and destroyed this country economically. So don’t come to this place with your fake outrage and your faux angriness about broken promises when you senators in the Labor Party are the experts in broken promises.

And we have got the big daddy or the big mama in the room, and that is the carbon tax. In 2010, Julia Gillard said—I will read the quote out for you; you may have forgotten it: ‘There will be no carbon tax under the government I lead.’ She got up there and said that; she made that promise about the carbon tax.

**Opposition senators interjecting—**

**Senator Polley:** Mr Acting Deputy President—

**The Acting Deputy President (Senator Bernardi):** Order! Pause the clock. Senator McGrath, resume your seat. Before I call you, Senator Polley, I will just say: Senators on my left, you are being very noisy; it is very hard to hear Senator McGrath. Senator Polley?

**Senator Polley:** Mr Acting Deputy President, I raise a point of order on relevance. We are discussing the cuts to the ABC and the SBS. We are not having a—

**The Acting Deputy President:** Senator Polley, there is no point of order. Senator McGrath is being relevant.

**Senator McGrath:** You don't like broken promises, do you? You don't like the truth coming out and being seared on you. That is what you did to the Australian people with your carbon tax.

**The Acting Deputy President:** Through the chair, Senator McGrath.
Senator McGRATH: Sorry, Mr Acting Deputy President. As to this false pretence on the carbon tax in 2010—the world's largest carbon tax—let us have a discussion about that and what it did to Australian families, that $9 billion carbon tax. But, no; the Labor Party—through you, Mr Acting Deputy President—do not want to talk about that. You turned your back on Australian families with that carbon tax.

Senator Bilyk interjecting—

Senator McGRATH: Yes, you did. You don't like hearing that very much at all. And if that is not bad enough, we are delivering on our mandate. Tony Abbott, the Prime Minister, and the coalition are delivering on their mandate, but, more importantly, they are delivering on cleaning up the mess that you left behind.

You do not want to talk about the carbon tax, but let us talk about the debt you left behind, because the reason we are having this discussion about the ABC and the SBS today is that this country has a huge debt. Do you know how much the interest bill is each month? It is a billion dollars. But if you are a member of the Labor Party, it is like, 'I don't really care about that. I don't really care about interest. I don't really care about debt.' You do not care about what your children and grandchildren—our children and grandchildren—are going to have to do to pay off that debt. Well, the buck stops here in terms of everyone tightening their belts. And the ABC and the SBS are not some deities to be put up on a pedestal, for us to go, 'Let's all pray to these institutions.' They are also part of the Australian fabric and they also must tighten their belts. So do not blame these parties on this side of the chamber for what is happening to the ABC and the SBS. Have a good look in the mirror in terms of how you left this country economically, and in terms of how the Labor Party and the Greens left this country with the huge debt that we are slowly going to pay off—as we did when we won office in 1996; we paid off the debt. Then you got elected in 2007 and racked it all up again on the government credit card.

Let us just talk about the efficiency study. Let us talk about what the ABC and the SBS—these billion-dollar organisations—can do to tighten their belts in terms of delivering better services with less money. They can do that. Let us look at what Sky News does in terms of the delivery of its services. But, no—somehow we have to protect the sacred cows of the ABC and the SBS; for some reason, they are excluded from efficiency dividends. Well, didn't the last Labor government but one put an efficiency dividend on the ABC? Didn't Ralph Willis do that when he was finance minister? So what is the difference now? There is no difference now. All we have here is pure politics from Labor and the Greens in relation to the ABC and the SBS.

It is disappointing that some ABC employees, who I think should know better, are actually tweeting in relation to this. I would hope that ABC employees would be aware of their own editorial policies and their own policies in relation to Twitter. I do have a tweet here I would like to read out. It is from Aaron Hollett, who is an editor of the South Asia bureau. He says: 'One in 10 jobs to go at your ABC. Thanks, Tony, you ...' I can't say the word but it begins with F and rhymes with ducker or mucker or something like that. I say to the managing director of the ABC: I hope that he is going to ensure that his editor-in-chief and his employees follow the policies of the ABC. (Time expired)

The ACTING DEPUTY PRESIDENT: Order! The time for the discussion has expired.
DOCS.

Consideration

The ACTING DEPUTY PRESIDENT (Senator Bernardi) (18:19): We now proceed to the consideration of documents under the new temporary order. The documents for consideration are listed under pages 6 and 7 of today's order of business.

Australian Law Reform Commission Report

Senator SIEWERT (Western Australia—Australian Greens Whip) (18:19): I rise to take note of the following document: Australian Law Reform Commission—Equality, Capacity and Disability in Commonwealth Laws—Final Report 124 and Summary Report—August 2014. This report is one that a number of people have been eagerly awaiting, and I am pleased to see that it has finally been tabled. It makes some very important points. It is a very thorough report. I have not had time to consider all of those points. But there are some important points that jump out to me straight away. It says in the report:

This Inquiry is about ensuring people with disability have an equal right to make decisions for themselves. It is about respecting people's dignity, autonomy and independence, while supporting them to make their own decisions, where such support is needed.

What more important day could there be to be talking about this when we have been talking about the BSWAT legislation this morning, that talks about support in decision-making. It goes on to say:

The ALRC recommends that the reform of relevant Commonwealth, state and territory laws should be consistent with the following National Decision-Making Principles:

Principle 1: The equal right to make decisions
All adults have an equal right to make decisions that affect their lives and to have those decisions respected.

Principle 2: Support
Persons who require support in decision-making must be provided with access to the support necessary for them to make, communicate and participate in decisions that affect their lives.

Principle 3: Will, preferences and rights
The will, preferences and rights of persons who may require decision-making support must direct decisions that affect their lives.

Principle 4: Safeguards
Laws and legal frameworks must contain appropriate and effective safeguards in relation to interventions for persons who may require decision-making support, including to prevent abuse and undue influence.

I would also make that point with regard to what we will be viewing on Four Corners tonight. These are absolutely essential principles.

The report goes on to make a series of recommendations, all of which I cannot do justice to in the time I have. But under 'Supported Decision-Making in Commonwealth Laws' it says that a Commonwealth decision-making model that encourages supported decision-making must be introduced into relevant Commonwealth laws and legal frameworks in a form consistent with the principles I have just been articulating. It also talks about needing to change the National Disability Insurance Scheme to ensure that the principles and objects in
the National Disability Insurance Scheme Act 2013 should be amended to ensure consistency with these principles.

And, very importantly, it talks about the Social Security Act needing to be amended to incorporate those principles, and access to justice. This is particularly important when talking about people with disability—and I am thinking of people with cognitive impairment who have been in incarceration for indeterminate periods of time. It says that the Crime Act 1914 should be amended to provide that a person cannot stand trial if that person cannot be supported to understand the information relevant to the decisions that they will have to make in the course of proceedings, retain the information to the extent necessary to make the decisions in the course of the proceedings, use or weigh that information as part of the process of making decisions, and communicate the decisions in some way. It also says that state and territory laws governing the consequences of a determination that a person is ineligible to stand trial should provide for (a) limits on the period of detention that can be imposed and (b) regular periodic review of these detention orders.

This is absolutely critical information. For everybody who has an interest in access to justice, in the rights of people with disability, and in, as the opening says, the dignity, autonomy and independence of people with disability, this makes essential reading. I have only had time to dip into these recommendations now, but it is a very thorough report, and it is going to have an impact on all our laws, both Commonwealth and state or territory, across the range of people's lives. Please, I urge the government to take these recommendations onboard and look at how they are going to start implementing them. I seek leave to continue my remarks later.

Leave granted.

**DOCU**

**MENTS**

**Order for the Production of Documents**

Documents were tabled pursuant to the orders of the Senate of 17 November 2014 for the production of documents relating to the submarine tender process, executive international travel, and biosecurity operations.

**COMMITTEES**

**Legal and Constitutional Affairs Legislation Committee**

**Membership**

**Senator FIFIELD** (Victoria—Manager of Government Business in the Senate and Assistant Minister for Social Services) (18:25): by leave—I move:

That Senator Lines replace Senator Collins on the Legal and Constitutional Affairs Legislation Committee for the committee's inquiries into the Migration Amendment (Protecting Babies Born in Australia) Bill 2014 and the Guardian for Unaccompanied Children Bill 2014, and Senator Collins be appointed as a participating member of the committee.

Question agreed to.
BILLS

**Marine Safety (Domestic Commercial Vessel) National Law Amendment Bill 2014**

Assent

Message from the Governor-General reported informing the Senate of assent to the bill.

**Automotive Transformation Scheme Amendment Bill 2014**

- **Report of Legislation Committee**
  - **Senator FAWCETT** (South Australia—Deputy Government Whip in the Senate) (18:26):
    - I present the report of the Economics Legislation Committee on the Automotive Transformation Scheme Amendment Bill 2014, together with the *Hansard* record of proceedings and documents presented to the committee.
    - Ordered that the report be printed.
    - **Senator FAWCETT**: I move:
      - That the Senate take note of the report.
    - Question agreed to.

**Migration Amendment (Character and General Visa Cancellation) Bill 2014**

- **Report of Legislation Committee**
  - **Senator FAWCETT** (South Australia—Deputy Government Whip in the Senate) (18:26):
    - I present the report of the Legal and Constitutional Affairs Legislation Committee on the Migration Amendment (Character and General Visa Cancellation) Bill 2014, together with the *Hansard* record of proceedings and documents presented to the committee.
    - Ordered that the report be printed.
    - **Senator FAWCETT**: I move:
      - That the Senate take note of the report.
    - Question agreed to.

**National Water Commission (Abolition) Bill 2014**

- **Report of Legislation Committee**
  - **Senator FAWCETT** (South Australia—Deputy Government Whip in the Senate) (18:26):
    - I present the report of the Environment and Communications Legislation Committee on the National Water Commission (Abolition) Bill 2014, together with the *Hansard* record of proceedings and documents presented to the committee.
    - Ordered that the report be printed.
    - **Senator FAWCETT**: I move:
      - That the Senate take note of the report.
    - Question agreed to.
Parliamentary Entitlements Legislation Amendment Bill 2014
Report of Legislation Committee

Senator FAWCETT (South Australia—Deputy Government Whip in the Senate) (18:26): I present the report of the Finance and Public Administration Legislation Committee on the Parliamentary Entitlements Legislation Amendment Bill 2014, together with the Hansard record of proceedings and documents presented to the committee.

Ordered that the report be printed.

Senator FAWCETT: I move:
That the Senate take note of the report.
Question agreed to.

Social Security Legislation Amendment (Strengthening the Job Seeker Compliance Framework) Bill 2014
Report of Legislation Committee

Senator FAWCETT (South Australia—Deputy Government Whip in the Senate) (18:26): I present the report of the Education and Employment Legislation Committee on the Social Security Legislation Amendment (Strengthening the Job Seeker Compliance Framework) Bill 2014, together with the Hansard record of proceedings and documents presented to the committee.

Ordered that the report be printed.

Senator FAWCETT: I move:
That the Senate take note of the report.
Question agreed to.

Migration and Maritime Powers Legislation Amendment (Resolving the Asylum Legacy Caseload) Bill 2014
Report of Legislation Committee

Senator FAWCETT (South Australia—Deputy Government Whip in the Senate) (18:26): I present the report of the Legal and Constitutional Affairs Legislation Committee on the Migration and Maritime Powers Legislation Amendment (Resolving the Asylum Legacy Caseload) Bill 2014, together with the Hansard record of proceedings and documents presented to the committee.

Ordered that the report be printed.

Senator FAWCETT: I move:
That the Senate take note of the report.
Question agreed to.

Business Services Wage Assessment Tool Payment Scheme Bill 2014
Business Services Wage Assessment Tool Payment Scheme (Consequential Amendments) Bill 2014
In Committee

Debate resumed.
Senator LAZARUS (Queensland—Leader of the Palmer United Party in the Senate) (18:27): by leave—I move amendments (1) to (3) on sheet 7625:

(1) Clause 8, page 8 (line 4), after "wage", insert ", indexed in accordance with the method in section 8A".

(2) Clause 8, page 8 (lines 15 to 22), omit subclause (5), substitute:

(5) In this Act:

actual wage means the total wages, worked out in accordance with the rules, that a person was paid in respect of all eligible days for the person.

productivity-scored wage means the total wages, worked out in accordance with the rules, that the person could reasonably have been expected to have been paid in respect of all eligible days for the person if the productivity component of a BSWAT assessment had comprised the whole of the BSWAT assessment.

(3) Page 8 (after line 22), after clause 8, insert:

8A Indexation

(1) This is how to index the excess of a productivity-scored wage over an actual wage for the purposes of paragraph 8(3)(a):

Method statement

- Step 1. Work out how much of the excess is attributable to wages in respect of eligible days for the person concerned in each financial year. Each such amount is the annual portion for the financial year.

- Step 2. Multiply the oldest annual portion by the indexation factor specified in subsection (2) for the financial year to which that portion is attributable. If the result is not an amount of whole dollars, round the result up to the nearest whole dollar.

- Step 3. Take the result of step 2. Add to it any annual portion for the next financial year (unless it is the 2014-2015 financial year, in which case go to step 4). Multiply:

  (a) the total; or

  (b) if there is no annual portion for the next financial year—the result of step 2;

  by the indexation factor specified in subsection (2) for that next financial year. If the result is not an amount of whole dollars, round the result up to the nearest whole dollar.

  Reapply this step for each subsequent financial year up to and including the 2013-2014 financial year, substituting the result of the previous application of this step for the result of step 2.

- Step 4. Take the result of step 3. Add to it any annual portion for the 2014-2015 financial year.

- Step 5. If the result is not an amount of whole dollars, round the result up to the nearest whole dollar.

(2) The indexation factors are the following:

  (a) 1.025 for the 2003-2004 financial year;

  (b) 1.025 for the 2004-2005 financial year;

  (c) 1.04 for the 2005-2006 financial year;

  (d) 1.021 for the 2006-2007 financial year;

  (e) 1.044 for the 2007-2008 financial year;

  (f) 1.014 for the 2008-2009 financial year;
(g) 1.031 for the 2009-2010 financial year;
(h) 1.035 for the 2010-2011 financial year;
(i) 1.02 for the 2011-2012 financial year;
(j) 1.024 for the 2012-2013 financial year;
(k) 1.03 for the 2013-2014 financial year.

(3) This section does not apply if:
   (a) the productivity-scored wage does not exceed the actual wage; or
   (b) all eligible days for the person concerned were in the 2014-2015 financial year.

I rise today to confirm that Palmer United will be supporting this bill, subject to the Senate chamber's support of the Palmer United Party's proposed amendments to this bill.

This bill seeks to provide a one-off payment to approximately 10,000 people across Australia with an intellectual disability who are working or have worked in supported employment with an Australian Disability Enterprise and have been remunerated with wages calculated under the Business Services Wage Assessment Tool. Given that we are aware of the history of the bill, I will not go into detail about the events that have led us up to this point. However, I will make the point that it is important that we, as representatives of the people of Australia, put things right by providing payments to those affected. While it is important that we put things right, it is also important that we ensure that the payments are sufficient. To ensure this, the amendments that I have circulated across the chamber will ensure that the people benefiting from this bill will receive a make-good, one-off payment, inclusive of CPI increases, backdated and compounded, which will significantly increase the financial value of the payments.

In my home state of Queensland I have met with workplaces affected by this bill. Andrew Donne, CEO of the Endeavour Foundation, one of Australia's largest employers of people with a disability, has taken me on a tour of the Toowoomba Endeavour Foundation facility. This workplace offers a supportive and nurturing environment for Australians with a disability. It is a positive workplace that actively involves people with a disability and the opportunity to be part of the workforce and to experience the social and economic positives that workplaces provide. I have spoken to parents of young adults with a disability who work in the Endeavour Foundation facility. The parents have advised me that the Endeavour Foundation provides an important means of integration and socialisation for their children. The parents of these young adults do not want to be part of legal action. They are happy to accept the payment from the Commonwealth government. These people do not want to be drawn through the courts and to be subjected to lengthy, ugly, stressful and protracted legal battles. All these parents want is a place where their children can work that is supportive, inclusive and considerate of the needs of their children.

The bill will provide a fair payment for work undertaken and it will also, through the Palmer United Party amendment, ensure that the payment is significantly higher than the original offering. Alongside this payment, recipients will also receive complimentary legal
advice, financial advice and, importantly, immunity from any taxation of government support payments implications which may arise from these payments.

Palmer United supports these bills subject to the adoption of our amendments to increase the value of the payments made under these bills. Therefore, I strongly urge all of my Senate colleagues to do the right thing and to support my amendments.

Senator FIFIELD (Victoria—Manager of Government Business in the Senate and Assistant Minister for Social Services) (19:32): I thank Senator Lazarus for his amendments and comments. The government has been in discussion with the Palmer United Party in relation to the issue of indexation. The Palmer United Party have put forward the proposition that there should be indexation at the CPI rate for each relevant year in the period relating to payment amounts from 2003-04 to 2013-14 and that the CPI rate would be applied to individual years to give a compounding effect. The effect of this amendment would be to increase the individual amounts paid to claimants in the scheme. The Palmer United Party amendments only make the scheme more generous. I want to acknowledge the good spirit in which the Palmer United Party and the leader, Senator Lazarus, and Senator Wang approached these discussions and this legislation. I acknowledge their genuine concern to ensure that Australian disability enterprises continue and that the employees in those organisations, who obviously gain the dignity of work, continue to have that opportunity. If I have not made it clear already, let me make it clear that the government will be supporting the Palmer United Party amendments.

Senator MOORE (Queensland) (19:33): The Labor Party will be supporting the Palmer United Party amendments.

Senator SIEWERT (Western Australia—Australian Greens Whip) (19:34): The Greens will be supporting these amendments because they are a slight improvement. We do not think it gets the bills over the hump for us in that there are still some fundamental problems with the legislation. When the amendments are passed, it will slightly increase it. But it does not address the issues around supported decision making and some of the fundamental issues I was commenting on in the chamber over an hour ago, in terms of the principles that the Australian Law Reform Commission has articulated in its latest report about equity and capacity for people with disability. This does not meet those principles, so we will not be supporting the bills but we do support the amendments.

The TEMPORARY CHAIRMAN (Senator Seselja) (19:34): The question is that the Palmer United Party's amendments (1) to (3) be agreed to.

Question agreed to.

Senator MOORE (Queensland) (19:35): I have a couple of general questions I wish to put to the minister before we move to any further action on the bills. One of those questions is following up on Senator Siewert's comments. It is appropriate that today we see the Australian Law Reform Commission report looking at equality, capacity and disability in Commonwealth laws. One of the keys aspect, as you would remember from our inquiry, was effective decision making in this process. The minister has pointed out in his contribution on the primary bill that he thought it was best placed to have these issues pointed out in the regulations, and I accept that that is the government's position. I would like a little more detail before we vote on exactly how the core principles and the things were talking about earlier,
full ownership and understanding of the decisions, will be picked up in those regulations and that consistency across the various pieces of legislation.

The other point, which was also raised in our community affairs committee, was the fact that this bill allows access to people for legal and financial advice. In fact, it is a core part of this legislation before decisions are made. If the minister could clarify a little about the way that advice will be given—I remember I raised in the committee hearing my concerns about whether there will be resources across the country that have the ability to effectively work with people with intelligence disability in the legal sense and in the financial services sense and as that is a threshold issue in ensuring that people have that advice, could we get something on record while we are discussing the bill from the government's point of view about how those resources will be provided.

Senator FIFIELD (Victoria—Manager of Government Business in the Senate and Assistant Minister for Social Services) (19:37): Thank you, Senator Moore, for your comments. In relation to the issue of financial advice, the government—the Department of Social Services—is consulting with peaks as to what the most appropriate mechanism is. There will be a requirement for someone who wants to be a participant in the payment scheme to furnish a certificate that they have received that financial advice. The cost of that financial advice will be borne by the government. In fact, one of our miscellaneous amendments does make clearer the fact that the government will have the capacity to, and does intend to, pay for that sort of financial counselling.

In relation to the Australian Law Reform Commission report, which, fortuitously or coincidentally, hit the decks of the Senate today, it is the government's intention that the draft rules—the rules that will flesh out the scheme—will require nominees to comply with the principles from the Australian Law Reform Commission report—namely, that every adult has the right to make decisions that affect their life and to have those decisions respected; that persons who may require support in decision making must be provided with the support necessary for them to make, communicate and participate in the decisions that affect their lives; that the will, preferences and rights of persons who may require decision-making support must direct decisions that affect their lives; and that decisions, arrangements and interventions for persons who may require decision-making support must respect their human rights.

I can also indicate that the duties of a nominee in the scheme will include the following: a nominee must support decision making by the participant personally; a nominee must have regard and give appropriate weight to the views of the participant; a nominee must become sufficiently familiar with the financial affairs of the participant so that the nominee can discharge his or her duties under the act and the rules; a nominee must avoid or manage any conflict of interest in relation to the nominee and the participant; if more than one person is appointed as nominee a further duty of each of them is to consult with the others before doing any act under, or for the purposes of, the act; a nominee must provide support to the participant to express their preferences in making decisions with respect to accepting or declining an offer from the BSWAT Payment Scheme; a nominee must communicate to the participant the process, decision and implications of decisions relating to the BSWAT Payment Scheme; a nominee must promote and safeguard the participant's human rights and act in a way least restrictive of those rights when making decisions relating to the BSWAT
Payment Scheme; and a nominee must recognise and respect the cultural and linguistic circumstances of the participant and ensure an appropriate form of communication, for the purposes of communicating about the BSWAT Payment Scheme, is used. There are a number of other provisions. I have given a fair indication of what the rules will be stating. As I said, they do seek to reflect the Australian Law Reform Commission's principles.

Senator MOORE (Queensland) (19:40): I have one follow-up question, Minister. When can we expect to have these rules?

Senator FIFIELD (Victoria—Manager of Government Business in the Senate and Assistant Minister for Social Services) (19:40): It is a function of the extent of our consultations. They can come out very quickly, indeed, if consultation is limited. The more extensive the consultation is may mean it takes a little bit longer. But, I am sure as colleagues appreciate, the first thing that has to happen is the bills need to pass. Then we can work on the rules. We will be endeavouring to do so as quickly as possible, but I very much take Senator Moore's point that consultation is important.

The TEMPORARY CHAIRMAN (Senator Seselja): The question is that the Business Services Wage Assessment Tool Payment Scheme Bill 2014 as amended be agreed to, subject to requests, and the Business Services Wage Assessment Tool Payment Scheme (Consequential Amendment) Bill 2014 stand as printed.

The committee divided. [19:46]

(The Temporary Chairman—Senator Seselja)

Ayes ...................... 30
Noes ...................... 31
Majority ................ 1

AYES

Back, CJ
Birmingham, SJ
Canavan, M.J.
Colbeck, R
Edwards, S
Fierravanti-Wells, C
Lazarus, GP
McGrath, J
Muir, R
O'Sullivan, B (teller)
Payne, MA
Ronaldson, M
Ryan, SM
Sinodinos, A
Wang, Z

Bernardi, C
Bushby, DC
Cash, MC
Day, R.J.
Fawcett, DJ
Fifield, MP
Macdonald, ID
McKenzie, B
Nash, F
Parry, S
Reynolds, L
Ruston, A
Seselja, Z
Smith, D
Williams, JR

NOES

Brown, CL
Carr, KJ
Di Natale, R
Gallacher, AM
Ketter, CR

Bullock, J.W.
Conroy, SM
Faulkner, J
Hanson-Young, SC
Lambie, J

CHAMBER
Question negatived.

The PRESIDENT (19:49): The committee has considered the Business Services Wage Assessment Tool Payment Scheme Bill 2014 and the Business Services Wage Assessment Tool Payment Scheme (Consequential Amendments) Bill 2014 and disagreed to the bills.

Senator FIFIELD (Victoria—Manager of Government Business in the Senate and Assistant Minister for Social Services) (19:49): I move:

That the report of the committee be adopted.

I indicate to all senators who voted against the legislation that there will now not be a Business Services Wage Assessment Tool Payment Scheme because of the way you voted.

Question agreed to.

Report adopted.

Australian National Preventive Health Agency (Abolition) Bill 2014

Second Reading

Debate resumed on the motion:

That this bill be now read a second time.

Senator URQUHART (Tasmania—Deputy Opposition Whip in the Senate) (19:51):

Before the election, Prime Minister Tony Abbott promised that there would be no cuts to health. In fact, he was very specific on this matter when he told 3AW listeners on 6 September last year that:

There will be no surprises, there will be no excuses, we will do what we've said we will do. What we aren't going to do is we're not going to cut health spending.

A clear statement, I would have thought, and one that Australians understandably took at face value. Far from being a champion for good health, it now turns out those opposite seem to be actively focused on creating an unhealthy nation. They have torn up the 2011 Health Reform Agreement, which provided Commonwealth support for the states to provide better hospital services. They have ripped out $50 billion in funding for the nation's hospitals. They have launched an unprecedented attack on Australia's proud universal healthcare system in favour of one that will be dependent on the size of your wallet. They plan to bring in a cruel GP tax which will do nothing but decrease health outcomes, especially among poorer Australians, by discouraging people from seeing the doctor. They are trying to hike the cost of medicines
through the Pharmaceutical Benefits Scheme, which will also ensure that poorer Australians lose out. They have axed the dental Flexible Grants Program, which is allowing regional and rural communities, in particular, to build better dental clinics and to improve access to dental chairs and to dental training. They are pulling funding for the nursing and allied health scholarships in Tasmania. They have shut down Health Workforce Australia, which was designed to guide the transformation of the Australian healthcare workforce to meet the needs of the ageing population whilst ensuring a sustainable healthcare system into the future. They have also put Medicare Locals on the chopping block. And the list continues.

So we can see how this government is developing a pattern of systematically dismantling all the good work that has been done to create a strong, responsive, forward-thinking health system, not just over the past six years but over the past 40 years. We have seen a determined effort to shift the cost of health care from the government onto the already strained budgets of low- and middle-income Australians. And Mr Tony Abbott has the audacity, the nerve, the absolute gall, to say there have been no cuts to health. Those opposite should hang their heads in shame. They have sold out their communities and deferred meekly to the heartless agenda of Mr Tony Abbott and Mr Joe Hockey.

These are not only cruel and unfair cuts that will disproportionately impact on the poorest people in our community but they make no economic sense. By cutting back on health care, the government all but ensures we will be less well and less productive into the future. The Australian Medical Association has warned that recent advances in health outcomes could be reversed as a result of the government’s short-sighted budget measures. Not only is the government not solving the problem of creating a more sustainable healthcare system; it is actually making it worse. By forgoing sensible, targeted spending now, this Abbott government is bequeathing a much heavier burden to future governments and future generations. The unadulterated attack we have seen on health care in recent months has left a very bitter taste for the millions of Australians who trusted that our now Prime Minister was telling the truth about his support for a healthy Australia. The axing of the Australian National Preventive Health Agency, or ANPHA, which we are considering today, is yet another casualty of this attack.

The National Health and Hospitals Reform Commission’s report of July 2009 and the final report of the national Preventative Health Taskforce of September 2009 both articulated the need for this sort of agency. It was recommended by the experts on the national Preventative Health Taskforce and was a key element of Labor’s health and hospital reform agenda. A dedicated preventative health agency also had the support of prominent health sector organisations including the National Heart Foundation, the Public Health Association and the Royal Australasian College of Physicians, to name just a few.

ANPHA was designed to take on a leadership role in prevention, specifically focusing on smoking, obesity, healthy eating, physical activity and harmful alcohol consumption. Its role was to coordinate, analyse and advise on chronic disease and its prevention. ANPHA has been providing leadership across the government, health and primary care sectors to bring about effective and coordinated preventative health strategies, programs and policies. It has also been working closely with Medicare Locals to increase the primary care sector’s focus on prevention. Labor built ANPHA as a dedicated agency to ensure that prevention was cemented as a central tenet of our healthcare system.
'Prevention is better than cure' is such a common piece of healthcare wisdom that it has almost become a cliche, but the thing about cliches is that they often gain that status because they call upon a universal truth. In this case, this cliche is not just a truism but it is a cold, hard economic reality. Labor listened when the experts told us the best way to improve health outcomes into the future was to focus on the point before disease starts, and we understood that lifestyle factors play an enormous role in preventable disease in this country—especially obesity, alcohol and tobacco.

The financial impost of the obesity epidemic and its associated costs are a growing drain on the healthcare budget and the wider economy. The Australian Diabetes, Obesity and Lifestyle study found the direct cost for overweight and obesity in 2005 was $21 billion. It estimated the indirect costs at $35.6 billion, with an overall total annual cost of $56.6 billion. This is why we need to continue to invest in preventative health. Similarly, we know that alcohol is implicated in a wide range of diseases, including cardiovascular disease, cancer, diabetes, liver disease, nutrition related conditions, serious risks to unborn babies, self-harm and mental health conditions. In 2003, alcohol consumption accounted for more than three per cent of the entire health burden of disease and injury. Between 1992 and 2001, more than 31,000 deaths were related to risky or high-risk alcohol consumption. In 2004, the social cost of alcohol was estimated to be more than $15 billion. In 2008, the Department of Health and Ageing estimated that we should be able to reduce these costs by up to half through public policy measures alone—more reasons why we need to maintain investment in preventative health. The impacts of tobacco use are even worse. In 2003, tobacco use accounted for eight per cent of the total burden of disease. The total of smoking related costs to society was estimated at $31½ billion in 2004-05. It is for these very reasons that the ANPHA was built as a stand-alone expert agency to focus exclusively on preventative health.

The work of his agency is too important to be callously cut. It focused specifically on addressing issues that lead to avoidable chronic disease and helps to place prevention at the centre of our public health thinking. ANPHA has been doing an excellent job. It has been helping to develop an evidence base on the state of preventive health in Australia and the effectiveness of preventive health interventions. It has been putting in place national guidelines and standards to drive preventive health to the heart of health care delivery. It has been managing the Preventive Health Research Fund. It has been working across jurisdictions to support all Australian health ministers to face the complex challenge of preventing chronic disease. It has also been actively developing public campaigns to encourage Australians to choose healthier lifestyles.

One of its most recent initiatives was the Be the Influence: Tackle Binge Drinking campaign to help young Australians cope with peer pressure around drinking. This campaign is about connecting with young people to encourage more responsible attitudes to alcohol consumption. It also gives young people the confidence and the tools to challenge the acceptability of binge drinking in their peer groups. As a youth focused campaign, Be the Influence, was largely delivered on social media and at music festivals and sporting events. The response to the campaign was exceptional. It achieved over 189,000 'Likes' on Facebook, making it one of the most popular Australian government social media pages in history.

It is clear that dismantling the Preventive Health Agency is a false economy that will reduce Australia's capacity to deliver coordinated, cross-jurisdictional preventative health
policy. It is also clear that this government seems to be actively focused on creating a less healthy Australia, with the greater health care costs shifted on to future generations. Not only is it economically foolish to forego prevention but it is also patently unfair. The reality is that health outcomes are not evenly distributed. Those with less money, less education and insecure working conditions have far worse health outcomes, as do people living with a disability or mental illness and Indigenous Australians.

Similarly, these people are also more likely to suffer illnesses that can benefit hugely from early preventive measures. By closing down ANPHA this government is launching yet another attack on the most vulnerable in our community. Chair of the Western Sydney Local Health District Board, Professor Steven Leeder, recently reinforced the complete lack of logic in the government’s slash and burn on health care. He said:

There is no policy that has guided the proposed cuts to federal contribution to health and education. There is no policy that led to the abolition of the ANPHA. These actions are not policy-based, at least not on policy as enacted in a democracy. They are ideological ideas. They depend not on discussion but on imposition. The Australian constituency is denied access to the reasoning, if there is any, behind the actions …

Those opposite say it again and again that the reason for the cuts is simply that the government can no longer afford to support an out-of-control health budget. The curious question is why would you choose to wear the health, social and budgetary risks of a sicker population while flagrantly spending money in other areas. I simply cannot understand how a government could choose to hand out $50,000 cheques to millionaires to have babies while ripping billions out of the health care system; how it could have enough in the kitty to spend $245 million for religious-only chaplains in schools and yet force the burden of health care costs onto the most vulnerable in the community. When there are so many other options available to say precious taxpayer dollars, if this is what this government really wants to do, which I have my doubts about, why would you cut preventive health bodies?

Of course, the myth of an unsustainable health system has been a dragged up again and again in order to justify shifting the costs of health care from the government to everyday Australians. But this myth should not be accepted at face value. Let's delve a little deeper with some actual facts. Australian government spending on health is the 10th lowest of the 33 countries in the OECD database and the lowest among wealthier countries. As a nation we spend about 9.5 per cent of GDP on health services, where the United States spends 17.7 per cent. This is not to say that we should not be looking for better, more efficient ways to deliver quality health outcomes. But preventive health should be front and centre of our health care system if we want it to be sustainable into the future, which begs the question: why is the coalition persisting with this short-sighted measure?

In the case of preventive health it turns out that this government has form. Shutting down the Preventive Health Agency is the latest in a list of attacks on programs that were helping Australians to smoke less, eat healthier, reduce alcohol and drug consumption, and exercise more. First came the axing of the Alcohol and other Drugs Council of Australia, which has been operating since 1966 as the peak body for organisations working to reduce the harm caused by drugs and alcohol. The Australasian Medical Association said closing ADCA was the wrong decision. The National Alliance for Action on Alcohol said it was a bad idea. The Foundation for Alcohol Research and Education said that it shouldn't go ahead. But the
Abbott government ignored them all. The Alcohol and other Drugs Council of Australia existed on a very small budget of $1.6 billion. Knowing this it is hard to believe it was cut because of the heavy strain it was placing on the budget, especially when you consider the government is willing to pitch in $1 million from the budget towards a student resident for the Australian Ballet School. The decision became even more short-sighted when you hear of a leaked report from the administrator which revealed the government had to pay out close to $1 million to shut the council down.

What we do know is that the minister responsible for preventive health, Senator Fiona Nash, has failed to provide a reason for the council being abolished. She also refused requests to meet with the chief executive and the board of the council personally, sending her chief of staff, Alastair Furnival, to break the news. However, Senator Nash still made time in her busy diary to meet multiple times with DrinkWise, which is funded by the alcohol industry.

Senator Nash's office was also behind another regressive attack on preventive health when it ordered the health department to take down a food-rating website designed to give a star rating to different foods so consumers could be informed about the health implications of their food choices. The site in question was a joint effort by state and territory health departments and had been approved by their respective ministers. It had been two years in development and had been developed in close collaboration with health and consumer groups. After the website had been shut down it was revealed that Senator Nash's chief of staff, Alastair Furnival, had previously been chairman of Australian Public Affairs, which had lobbied on behalf of food-processing companies affected by the healthy foods rating scheme. Of course, I do not need to remind either side in this place of how that turned out.

Another reckless cut to preventive health in the 2014 budget was the slashing of $2.9 million from the National Tobacco Campaign, which has been very successful in raising awareness of the harms of smoking and in discouraging its use. So we have a minister who is supposed to be responsible for preventive health who has terminated funding that was addressing some of Australia's biggest health concerns—that is, tobacco, drugs, alcohol and unhealthy eating—a very uncomfortable situation indeed. It is not surprising that these absolutely irresponsible cuts that occurred on Senator Nash's watch prompted an editorial in *The Age* entitled 'Nash fails in smoking, alcohol and now food labelling'. The article outlined the blatant and very concerning conflict of interest issues at stake when it said:

The prevention of ill health and early death is challenged by the global commercial interests representing tobacco, alcohol and obesity. Nash's record in all these areas gives cause for concern.

It seems the big winners in this move are the junk food companies and the alcohol and tobacco industries, and the losers are the Australian public and health outcomes for the entire nation. Again you have to ask yourself why this government seems to be so against healthy living and so determined to shut down programs that encourage and support Australians to embrace more healthy lives and a healthier lifestyle. In short, if we want a more sustainable healthcare system in the future we need to invest more in preventive health, not less. This government has been not only cruel but economically reckless in its slash-and-burn on Australia's preventive health initiatives.

**Senator LINES** (Western Australia) (20:10): I rise today to also oppose the Australian National Preventive Health Agency (Abolition) Bill, which seeks to repeal the Australian National Preventive Health Agency Act 2011 and seeks to abolish the Australian National
Preventive Health Agency, ANPHA. It is all very well for the Abbott government to dismantle key agencies—particularly in the area of health—and to claim that these functions, or some of them, will simply be picked up by the Department of Health. I have lost count of the number of times the Abbott government has said this; but saying this demonstrates that the Abbott government does not understand how you prioritise and focus. It is hard, probably impossible, to get focus on particular issues in large government agencies. This is not a criticism of hardworking public servants, but more about how work is allocated, measured and reported on. You can, of course, give someone a range of issues to be responsible for, but how do you focus on and deliver those improved health outcomes for the Australian community?

That was the whole point of the Australian National Preventive Health Agency. It provided that focus. And what the Abbott government does not understand is that that focus, in and of itself, is a resource. The Abbott government also demonstrates that it does not have a clear strategic agenda in health; its only agenda in health is cuts, cuts and more cuts. And when it cannot cut it tries to shunt back to state governments the responsibility for various programs by claiming that health is a state issue. We have just seen that with the abolition of the Health Workforce Australia. Delivering a competent health workforce for the future is now the planning and delivery responsibility of states and territories. Good luck with that plan!

The Australian National Preventive Health Agency's focus was on alcohol, tobacco and obesity—all significant lifestyle risk factors associated with chronic disease. Approximately 40 per cent of potentially preventable hospitalisations for chronic conditions are associated with alcohol, tobacco or obesity. Firstly I want to take a few minutes to focus on tobacco. These alarming facts are on ANPHA's website, which also has a note that it will soon be taken down. Smoking rates among some of our most disadvantaged population groups—people who are long-term unemployed, lone parents, people with mental health issues, those who have a substance use problem, people in prison, people who are experiencing homelessness or people who are Aboriginal and/or Torres Strait Islander—remain much higher, in some cases five times higher, than in the general population. And of course that contributes to poorer health, higher death rates and increased financial stress. It is also the major contributor to the health gap between Aboriginal and non-Aboriginal Australians, and it is the difference in mortality between the least and the most disadvantaged in Australia.

High smoking rates are contributing to health and financial inequalities in the most disadvantaged groups in our communities. Social disadvantage and smoking rates are intrinsically linked—as levels of disadvantage accumulate, smoking rates increase. There is merit in tailoring cessation services to the different needs of disadvantaged groups and delivering cessation strategies within organisations that are already accessed by these groups—specialist services but within an existing, trusted organisation. Those social and community service providers have an important role to play in tobacco control and cessation—but, of course, only if they are adequately funded to provide this support.

An example of some of the work that ANPHA has been doing is a partnership with the Warmun community in East Kimberley in Western Australia, who worked with the Australian Council on Smoking and Health to identify some issues in their community. That community of 450 people wanted some real, tangible outcomes—tobacco control education and awareness by children and youth and by mothers and decisions by the community council to
make areas of the community smoke free. The community also wanted to see the health impacts and the economic costs of cigarettes conveyed to children, youth and mothers. Based upon feedback and recommendations from the children and youth, and supported by the community through the manager of Gija Health, the council agreed to make four areas of the community smoke free: the basketball courts, the school grounds, the new recreation centre, and a buffer zone in front of the community store. Thirty community youth painted and used 'no smoking' signs in their homes.

The community has a raised level of awareness around tobacco, resulting in more smoke-free homes, a number of residents who have accessed quit services, and a heightened awareness by community leaders of the issues around tobacco and the harm caused by tobacco in the community. This has created an increased desire to develop and implement tobacco control and quit strategies. Health staff and youth workers have been trained in Brief Intervention, smoking cessation, drug awareness and spirometry. Tobacco control and health workers have been introduced to the community and to one another. Tobacco control is becoming a priority in the Warmun community. All of that will now be shut down with the moving of that agency to within the broad parameter of the Department of Health.

On alcohol, the Australian National Preventive Health Agency strategic plan outlined strategies which included providing advice on options to strengthen policies and programs through price related mechanisms, regulation, responsible marketing and the protection of children from exposure to promotion, and on strengthening standards and advice around the supply of alcohol to minors and alcohol related licensing. But in the past when in opposition, the coalition did not support all of these measures, particularly in relation to control on pricing. ANPHA supported the development of policies and programs will promote a change in the drinking culture among young people and play a leading role in the ongoing roll-out of government and community-supported programs that address binge drinking. I do not think anyone in this place would not agree that binge drinking is a problem in our communities. Further, ANPHA also supported and contributed to a national dialogue on drinking culture, public and individual safety and alcohol related harm.

Another example in the Aboriginal community in Western Australia which, presumably, will not exist once this agency is folded up is the David Wirrpanda Foundation netball program, which is aimed at Aboriginal and Torres Strait Islander young women between the ages of 12 to 17 years. The program uses netball as a way of engaging participants and educating them about the harms of binge drinking. It is a very worthwhile, tailored, specifically targeted program that was the recipient of funding. The program is located throughout Western Australia—in Bunbury, Mandurah, Kellerberrin/Merredin, Kwinana, Perth and Katanning. So both metro and regional areas had access to the David Wirrpanda binge-drinking netball program which was funded through ANPHA.

In the Eastern Goldfields, through the YMCA, a preventive program aimed at 12 to 24 year olds in the Kalgoorlie-Boulder is utilising a whole-of community approach and working through a number of community partners to address binge drinking in that community. Presumably, that program will now be cut or curtailed because of the abolition of ANPHA. A program in Wyndham aims to address binge drinking amongst young people aged 12 to 24 years Aboriginal by raising awareness of harms, providing alternative activities, mentoring
and referrals. Wyndham is a town where money should be going in, not coming out through
cuts in programs by the ill thought-out cut mentality of the Abbott government.

Labor established ANPHA in 2011. We established it to take a leadership role in
preventive health for Australia; to coordinate, analyse and advise on key statistics and data in
relation to chronic disease and prevention; to provide a focus; and to hold one agency clearly
responsible in a nationally coordinated way to increase outcomes related to tobacco, obesity
and alcohol. ANPHA has been providing leadership across the non-government health
promotion and primary care sector, too. But, again, we see no analysis being done by the
Abbott government and no review being undertaken—just, 'We can do without that. We'll
lump it all back into the Department of Health and somehow it will all right.' Well, it will not
be all right, because these chronic issues in our community need their own focus—not to be
bundled up as part of an overall strategy. They need specific strategies in and of themselves,
and that is what Labor provided.

If only the Abbott government could at least stand with a clear conscience and say: 'We
reviewed these programs and guess what? Look, they didn't work as we thought. We
want to provide a different approach.' But, no, we are not seeing any of that; we are again just
seeing this slash and burn that goes on right across our sector, but that is particularly now
focused on health. The Abbott government say, 'We will just slash and burn this program
because we want to take some money out'. It is so short-sighted to take money from
preventive programs, because guess what? All we will be doing is crowding out our accident
and emergency departments. We will see chronic disease increase; we will see governments
of the future having to put more money into managing people in hospitals instead of putting
money in at the top of the stream for preventive measures. What sort of short-sighted
government thinks that abolishing an agency which focused on preventive health is somehow
a good outcome for the health of Australians—it is not. The money in health needs to be at
the preventive end, which of course will lessen over time the amount of money we need to put
in at the tertiary end—through our hospitals and through our doctors. That is common sense.
But of course, common sense is never what we see from the Abbott government. It is just
about cutting and burning. Any program that the Labor government put in place that is
successful, that has outcomes that are measurable—programs that can look at the
communities that I have just outlined and go and measure those outcomes—just no. No
analysis, no measurement; just a cut, cut, cut mentality. It is someone else's problem; it is
certainly not the Abbott government's.

ANPHA has been playing a central role in collaborating across the health sector to embed
preventive health as central to the delivery of health care, and that is what we need.
Prevention has got to be a key part of every health professional's message when they sit with a
patient or client so that when they talk they engage each patient in what else that patient can
do to improve their own health outcomes. They not only need facts and figures at their
disposal but they also need to be able to refer patients on. They need to have confidence that
the agency they are referring the patient to or the program they are suggesting the patient
undertake is there and readily available. In particular, ANPHA has been working with
Medicare Locals—we know what is happening to those—to enhance the primary care sector's
focus on prevention. That is what we have to do. The agency was responsible for providing
evidence based advice to governments—evidence based advice; not a slash and burn, not a
cut, cut, cut—so that governments could look at, support and help with the development of preventive health policy and make decisions about that. ANPHA was set up to provide reports. What we did not want—certainly what Labor did not want—was an agency that became focused on itself without being able to report. Its role was to report regularly on the outcomes identified in its strategic plan around preventive health measures.

The agency was managing a research fund to gather information needed to develop new preventive health policies and programs, with a focus on translating that research into practice. Many times we see good research but we do not see it translated into practice. That is exactly the role that ANPHA was undertaking, and that will be gone too. We are not only seeing the abolition of these agencies if this bill, which Labor is not supporting, is successful but also the National Partnership Agreement on Preventive Health will be terminated. So, again, they are saying to the states and territories: 'Go it alone. Find your own outcomes. We don't really care. We're not interested if suddenly outcomes are better in one state than another.' The Abbott government is simply not interested in any kind of national preventive health message. Abolishing the national partnership agreement without anything taking its place is saying very clearly to the states and territories, 'Oh, and by the way, you will have to deal with all of this on your own.' This will just create more uneven outcomes, different measurements and different strategies being played out right across Australia with no central agency collecting and analysing that information. Again, this is a really short-term outcome that is not wrapped up in any kind of strategic plan. Anyone with half a brain in health would tell you that you must have a strategic plan that looks at preventive measures, but the Abbott government does not seem to get that because it only has a plan about cutting.

Labor recognises the value of and the need for long-term sustained investment in preventive health. It is not going to happen in the life cycle of a federal government. It does need to be sustained and there needs to be a long-term investment so that we see the benefits to health outcomes. Ultimately, we will see savings to our health system because that is what a long-term investment can achieve. If we have good preventive measures in place we will have less people being admitted to hospital—that is just common sense. That is why Labor established a dedicated agency—that is, to drive that agenda over a sustained long-term period and provide the infrastructure for this to continue beyond the budget cycle.

Labor built ANPHA so that prevention became a central focus of our health system, because that is where it needs to be. ANPHA was directing action specifically around obesity, tobacco and alcohol use. Many of the most important organisations working directly in public health all support ANPHA. They include the National Health Foundation, the Public Health Association and the Royal Australasian College of Physicians. Labor will oppose this bill for the short-sightedness that it demonstrates in relation to the key priorities facing Australia's health today and for the lack of vision—no plan, no vision—that the Abbott government has in relation to understanding the challenges facing the health system into the future.

And of course this bill comes on the back of a raft of other broken promises—the GP tax, the increase to the cost of pharmaceuticals, the increase to specialist services, the attack on Aboriginal health organisations—on and on the list goes. Labor will always be the party of health care. By contrast, Australians know, the coalition simply cannot be trusted when it comes to providing a strong, sustainable and universal health care system.
I rise to speak on the Australian National Preventive Health Agency (Abolition) Bill 2014. This bill is yet another attack by this government on the health needs of Australians, an unprecedented attack on our health system, an attack on Medicare, an attack on hospitals, an attack on low- and middle-income Australians who get sick. And an attack that will see an average Australian family pay much more in healthcare costs every year.

We have already seen this government rip $50 billion in funding out of health and hospitals. We have seen this government seek to impose a $7 GP tax and make medicines more expensive. This will stop people from going to the doctor because they simply cannot afford it.

The Abbott government argues that healthcare costs are out of control and that is why these cuts and new GP tax are warranted. This argument is completely at odds with the bill that is before us today. Why, if you believed that growth in healthcare costs was unsustainable, would you cut measures that save money? Preventative health saves money—and lives.

Commenting on the government's budget cuts to preventive health, including the abolition of the agency, Michael Moore, Chief Executive Officer, of the Public Health Association of Australia said in a media release of 13 May:

It has long been said that prevention is better than cure. Certainly prevention is cheaper than treatment—and its false economy to cut funding in these areas to achieve short-term savings. As it stands, only about two per cent of the health budget is spent on prevention. If the government wants to reduce pressure on the health budget over time, they should actually be looking to increase that figure. Instead, expenditure on prevention is reduced dramatically.

It is clear that in the long run, the abolition of the agency will cost the health system more. The budget papers show that the abolition of the agency will save just $6.4 million over five years. This is a short sighted saving as compared to the long-term savings to the health system made by investing in preventative health.

A 2001 analysis by Applied Economics found that between 1970 and 1998 every $1 of expenditure on preventive programs for tobacco smoking reaped $2 of expenditure savings. Even more recent international research has found that every $1 invested in community based disease prevention programs to reduce obesity, increase physical activity and reduce smoking provides a return on investment over and above the cost of the programs of $5.60 within five years. The evidence is clear: investing in preventative health measures saves money.

Labor understand this and recognises the value of preventive health. That is why, in government, we built GP Superclinics, established Medicare Locals and funded more headspace centres. And that is why we established the National Preventive Health Agency and the National Partnership Agreement on Preventive Health.

The government's decision to abolish the agency is nothing more than a cash grab—a quick fix on the bottom line—that will result in an extra burden being placed on the health system. It just makes no sense.

We know that preventable diseases are contributing to the rising costs of healthcare in Australia. We must take urgent action on these preventable diseases. By educating and informing Australians on how to live healthy lifestyles, we minimize their risk of getting chronic diseases and illness.
Labor recognised the value and need for long-term, sustained investment in preventive health. That is why Labor negotiated the National Partnership Agreement on Preventive Health, which was agreed to by COAG in 2008. A core element of this agreement was the establishment of infrastructure to drive national preventive health policies and programs. The establishment of the first ever Australian National Preventive Health Agency in 2010 fulfilled this commitment.

There were three central parts to the work of the agency: providing evidence based advice to federal, state and territory ministers; supporting the development of evidence and data on the state of preventive health in Australia and the effectiveness of preventive health interventions; and put in place national guidelines and standards to guide prevention health activities. These were all to help Australians change their lifestyle and improve their health.

The agency was focused on smoking, healthy eating, obesity, physical activity and harmful alcohol consumption. The Global Burden of Disease study found that poor diet, high body-mass index and tobacco smoking are the three biggest risk factors accounting for the greatest disease burden in Australia. The risk factors of obesity, alcohol and tobacco consumption contribute to around 40 per cent of potentially preventable hospitalisations for chronic conditions.

The National Preventative Health Taskforce Australia found:

The cost to the healthcare system alone associated with these three risk factors is in the order of almost $6 billion per year, while lost productivity is estimated to cost almost $13 billion.

So Labor had the foresight to establish this agency with the support of health experts who recommended it so the Commonwealth and states could work together to help Australians take steps in their lives to minimise their chance of getting serious diseases later in life.

This bill abolishes the groundbreaking agency and the very valuable work it has done and intended to do in the future. It is another decision of the Abbott government that just makes no sense. It is short-sighted and senseless. But we know this government has made many illogical decisions in the area of health. It has shown a total lack of commitment to preventive health in this country and it has shown scant regard for Australia's health at a time when we know the risk of suffering from chronic disease and illness is increasing. We know that 14 million Australians are overweight or obese. We know that more than 15,000 Australians die each year from smoking related illnesses. We know that one in five Australians over the age of 14 drink at levels that put them at risk of alcohol related harm over their lifetime.

In my home state of Tasmania the Health indicators Tasmania 2013 report prepared by the population health branch of the Department of Health and Human Services highlights the need for evidence and action on preventive health. In the report the Director of Public Health, Dr Roscoe Taylor, said:

Monitoring the health of Tasmanians is fundamental to providing evidence-based services and health promotion strategies and programs to improve health.

The Australian National Preventive Health Agency, which this bill abolishes, was set up to provide evidence based advice to state and territory health ministers to guide the services and strategies that Dr Taylor says are needed to improve people's health. Last year's Health indicators Tasmania report shows that we must do more to improve the health of Tasmanians. We must focus on prevention.
The report shows that, while Tasmanians are living longer, the proportion of Tasmanians with chronic diseases and disability has increased. Dr Taylor goes on to say:

Tobacco smoking remains Tasmania's single most preventable risk factor, rates of harmful alcohol consumption are higher in Tasmania than Australia as a whole and physical inactivity and poor nutrition are still too high among our population.

The majority of Tasmania's adult population is overweight or obese.

These data overall clearly demonstrate serious health issues are affecting growing numbers of people in our population.

Many of these health issues are preventable.

It is clear, as Dr Taylor says, that prevention is the key to good health. We know that the agency was able to provide evidence based advice and data and also helped develop guidelines and standards to ensure the emphasis was on prevention.

Unlike those opposite, Labor knows how important it is to listen to the experts and take notice of the evidence. We know how important it is that we concentrate on preventing Australians from getting chronic diseases. We know that we can take steps to avoid many of them. Labor led the way to establish a dedicated agency so that prevention became a focus for our health system. We know that preventive health is pivotal in ensuring a strong and sustainable healthcare system in Australia. That is why the previous Labor government worked with states and territories to come up with the first national partnership agreement on preventive health.

Because we know prevention is so crucial, Labor extended the partnership until 2018 and invested $930 million—nearly $1 billion—because Labor recognised the importance of prevention if Australians are to live healthy lives. But, in yet another savage budget cut, this government ripped up that agreement and slashed $367 million in funding for prevention. No consultation, no discussion and no policy rationale; just cut, cut, cut.

But what can we expect from a government that clearly does not care about our health care? It does not care about people who are ill. The government's decision to abolish the National Preventive Health Agency and axe the National Partnership Agreement on Preventive Health is just one part of their attack on the Australian healthcare system. Figures from the independent Parliamentary Budget Office revealed the Abbott government's GP tax, cuts to the MBS rebates and hikes in medicine prices will rip $23.3 billion out of health over the next decade. The report *Projections of government spending over the medium term* forecasts that the GP tax and end of bulk billing will take $18.6 billion off doctors and patients over the next decade. The report similarly forecasts that the increase to the PBS for medicines raises another $4.7 billion over the next decade. These cuts are in addition to the $50 billion the Abbott government has already ripped out of public hospitals.

Mr Abbott promised there would be no cuts to health and no cuts to hospitals, but we now know that this was a lie—a $75 billion lie. Those opposite try to justify these cuts with false claims of out of control health costs, claiming that the spiralling costs threaten the viability of the system. The greatest threat to our health system is this government. Axing important preventive health measures and whacking sick people with a tax that will only prevent them from seeing a doctor is going to cost Australians and our health system. These decisions by the Abbott government will lead to more serious and expensive health problems. Labor will not stand by as the Abbott government attacks public hospitals and Medicare—as they attack
our health system. Labor is rightly concerned that the decision of those opposite to abandon the $367 million national partnership and to abolish the agency will leave the Commonwealth with no role in funding or developing preventive health policy.

Not only are those opposite seeking to abolish the independent agency; they are not properly resourcing the Department of Health, which, they claim, will be taking over the functions of the agency. Department of Health officials gave evidence to the Senate Community Affairs Legislation Committee’s inquiry into this bill that the department has resourcing to employ approximately half the number of people employed by the agency. This is completely inadequate to ensure the functions of the agency can continue to run effectively. The lack of investment and coordination will only add an unnecessary burden and cost to the health system in the future, due to higher rates of chronic disease such as diabetes and heart disease.

The Labor senators' dissenting report on the Community Affairs Legislation Committee inquiry on the Australian National Preventive Health Agency (Abolition) Bill recommends that this bill be opposed. This position is supported by many public health advocates and health specialists. In a submission to the Senate committee's inquiry into this bill, the eminent Royal Australasian College of Physicians commented on the important work of the agency and its concern about preventive health. It said:

The RACP is concerned that the repeal of the Australian National Preventive Health Agency (ANPHA) sends a very negative signal to the community about the value of preventive health, especially as it comes on top of the discontinuation of the National Partnership Agreement on Preventive Health.

It goes on to say:

Long-term and well-planned preventive health measures are highly effective investments, and necessary to address many of the chronic health issues exacerbated by lifestyle related behaviours and choices. Chronic disease is rising in incidence in Australia and is placing increasing pressures on our healthcare system—both from a patient care and a cost perspective—and needs to be addressed.

In their submission to the committee's inquiry, the National Rural Health Alliance explained that sometimes health promotion efforts can take years to yield results. For example, skin cancer prevention campaigns, such as the 'Slip, Slop, Slap, Seek & Slide' campaign we are all familiar with, did not happen overnight. The alliance said:

Work to tackle issues such as high levels of alcohol consumption and smoking, diabetes and obesity should have the benefit of being sustained.

This government is just too arrogant to listen to the medical experts who want this agency retained. It is inconceivable that, at a time when our population is ageing and chronic disease rates are increasing, a government would abolish an agency set up to focus on smoking, obesity, healthy eating, physical activity and alcohol consumption. As Professor of Public Health Policy at Curtin University Mike Daube said in his condemnation of the cuts to preventive health spending and the abolition of the agency:

… it's a dark day for Australia's health and health services, and especially for prevention. Nobody can doubt our health services and future health are the big losers. The crazy part of all this is that it's preventive programs that ultimately save the system money.

I will repeat that. He said:

The crazy part of all this is that it's preventive programs that ultimately save the system money.
A dark day indeed—and that is why Labor will oppose this bill in its entirety.

Senator O’NEILL (New South Wales) (20:48): I rise, along with my colleagues here in the Labor Party, to oppose the Australian National Preventive Health Agency (Abolition) Bill 2014, as we opposed the Health Workforce Australia (Abolition) Bill 2014. It does not make sense to dump the very important work undertaken by these agencies. We heard Senator Brown in her contribution this evening quote a really important range of experts across the country who gave evidence to the Senate Community Affairs Legislation Committee’s inquiry, and in her closing comments I note that she spoke about the sort of testimony that came out with phrases and rhetoric such as, 'It will be a dark day for Australia' if this legislation passes.

This sort of rhetoric is the kind of rhetoric we are hearing from health experts across the country in every single field that this government tries to put its grubby hands on and to tear apart. 'Crazy'—it has been described as 'crazy' policy to cut the agencies that were going to lead to the prevention of ill-health. That is really what is before us in this debate.

The government says: 'We don't need an Australian National Preventive Health Agency. We don't need it. Just trust us on this.' Well, I think the Australian people have watched this government in action for long enough now to know that they cannot trust a single word they say. And they certainly cannot trust this government on policy, because the policy that they are making, particularly in the area of health, is around waging an ideological war against equity of access for people and against the best scientific evidence. What they want to do is to tear apart the very fabric of our society by tearing away people's access to good health options, to good health education, to good health access and, through all that, to the good health that sustains good living and, in part, is vital for a good economy. Their vision is so myopic—so short-sighted—that they dare to bring this sort of a bill into this place.

The key point that I would like to make tonight is that, without a concerted effort in health promotion and disease prevention, the growing cost of chronic disease in Australia simply cannot be addressed. If there is an emergency in health, it is about prevention of ill-health. Sadly, in the last few weeks, we have had too many reports in our local and national media about the impact of chronic disease in the Indigenous community. Just last week from the Productivity Commission, there were reports of success in some elements of closing the gap, but very significant increases in the burden of chronic disease. And there have been predictions that for the first time in my lifetime younger generations will actually have shorter lives than those of their own parents. In that context, how irresponsible, how foolish could this government be, to actually get rid of the agency that was dedicated to the task of preventing ill health? Yet that is what they intend to do.

In contrast, the Labor Party is constantly striving for greater accessibility and quality within all sectors of the health system. The Australian National Preventive Health Agency was set up by the Labor Party, in government, playing the lead role in preventive health research and increasing Australia's preventive health capacity. When in government, Labor established ANPHA to drive population-wide behaviour change to address preventable illness in our nation. This is not just about an individual making a choice; this is about getting an entire community to see the prevention of ill health as something to move towards. Labor did this because of the things we believe in, because of our values and what we believe about every Australian. We understand that health promotion is effective and that it works, and that
is evidenced by our achievements across many decades, particularly in relation to tobacco. I have to say how proud I was to be in the 43rd Parliament in the House of Representatives when the plain packaging legislation went through. How significant the changes have been in terms of the consumption of tobacco and, with that, the decrease in the number of people who suffer illness. That is what prevention and health education is all about.

We have had incredible success internationally to achieve remarkably low levels of tobacco smoking in our population, although there are still segments of the population where it is really high. Sadly, the Indigenous community is over-represented. So, we need to have very carefully targeted preventive health care that meets communities where they are in language that relates to communities and is culturally appropriate for communities. That was the work of ANPHA. But this government, in all its arrogance, claims that it knows better. Against the evidence base, this government will back its prejudices every time and is committed to removing the funding and the structure that will save Australians from the incredible cost of a failure to prevent.

Our success in the HIV area is another example of where health promotion has been powerfully effective in the Australian context—and of course in road safety as well. As a young girl growing up my dad worked most of the week—six days, often seven. Sometimes when he was home on the seventh day we would listen to 2UE, and there was a wrap-up of what happened on a Saturday night. There were so many alcohol fuelled car accidents, so many young people—so many more than is the case today—and no safety belts. Things that we have changed in terms of prevention have improved national health and wellbeing—young lives that have not been lost, ill health that has been prevented. That is what ANPHA is about. But this government is seeking to cut it.

Leading takes time, it takes partnership and it takes funding, and this government has none of those qualities. Only Labor has committed to funding and enabling proper preventive health in this country. Internationally, it is well understood that chronic preventable disease continues to be the leading cause of death, and this is certainly the case in Australia. Consequently, health promotion and disease prevention is vital for the Australian health system, and it must be at the heart of our public health policy. We need evidence based advice to federal, state and territory ministers. We need the capacity to support the development of evidence and data on the state of preventive health care in Australia, and we especially need to measure the effectiveness of preventive health interventions and to put in place national guidelines and standards that guide preventive health activities. It was ANPHA's job to take the lead on all of these activities. But Mr Abbott and Mr Dutton choose to scrap all of this, and that is why we are here debating this piece of shameful legislation this evening.

Recently I met with Donisha Duff and Luke Toy from Kidney Health Australia. Ms Duff is National Manager Indigenous Affairs for Kidney Health Australia. She reported to me that chronic disease continues to be the leading cause of death in Australia. Every agency is telling us the same story, but the government refuses to hear. Currently approximately 1.7 million Australians—that is one in 10 Australians aged 18 years and over—have indicators of chronic kidney disease. Adult Australians are at increased risk of chronic kidney disease if they have diabetes or high blood pressure, if they have established heart problems or have had a stroke, if they have a family history of kidney disease, if they are obese, if they are a smoker, if they are 60 years or older, or if they are of Aboriginal and Torres Strait Islander origin. And the
real sting in the tail is that a person can lose up to 90 per cent of their kidney function before experiencing symptoms.

Imagine the savings we could generate across the board in our health system—and I mean genuine savings, not cuts; this government loosely interchanges them all the time as part of its masquerade and continuing deception—if we could actually prevent the development of chronic kidney disease in the first place. That is the sort of work ANPHA has been charged with. We have seen during the period in which they have operated leadership across non-government health promotion and primary sector care sectors in order to deliver the coordinated and effective preventive health activities and policies that are necessary to get that sort of a policy outcome. That translates into real people, real Australians, living better lives, loving their families for longer, living well with their families and in their community, contributing productively to the economy, living a joyful, health life.

ANPHA was playing a central role in collaborating across the health sector to embed preventive health as being central to the delivery of health care. In particular, ANPHA was working with Medicare Locals to enhance the primary care sector's focus on prevention. Medicare Locals is another disgraceful policy initiative by this government. In addition to the 'there will be no cuts to health' mantra that we heard, we also had a point blank delivery, down the barrel of a camera from the Prime Minister saying he would not cut any Medicare locals. He promised that to every community across the country, but that proved to be completely incorrect as they are pushing now to get rid of every single Medicare Local at a cost of $112 million and thousands of jobs across every community to change the entire structure and put in place instead their own branded version of what they call primary health networks.

On the Central Coast they have decided to join it up to the Hunter and indeed to New England, all the way up to the Queensland border. Instead of 320,000 people getting preventive health messages in their community through their Medicare Local, then are now joined up with 1.1 million other Australians all the way, as I said, up to the Queensland border. There is nothing local about that. And the preventive health messages that needed to be differentiated across those communities will be lost in this mega bureau which the government is intent on delivering to the country. It is another broken promise among the many.

ANPHA was working with Medicare Locals across the country to entrench preventive measures into the primary care sector, to assist Medicare Locals in delivery of community health measures in place in their local community. Of course, this was different from one part of the country to another because to be relevant and responsive to local needs you actually have to have different programs, different messaging which, as I said, is geographically, culturally, socially accessible to that population and different from other places in the country.

This important point seems to be lost on Minister Dutton and his assistant minister in this chamber who seem very determined to push a one-size-fits-all approach to primary care. It just will not work and it belies the reality of the differentiated nature of health needs across this nation.

ANPHA was working with Medicare Locals to enable flexible local delivery of population-based health promotion and prevention, activity to reduce the indicators of chronic disease, but Mr Abbott and Mr Dutton choose to scrap all of this. In my role as chair of the Select
Committee on Health, we have heard testimony from Dr Bruce Bolam, executive manager of the Victorian Health Promotion Foundation, which was an incredibly innovative and early responder to the literature around the powerful impact of preventive health. Dr Bolam told the committee about the cost-effectiveness of preventive health, in particular how health promotion and prevention through his agency were leading to much better health outcomes and to reduced cost to the Victorian government. We got some evidence from him, unlike the ideology we are getting from the government. He said it has been estimated that for every dollar spent on health promotion and prevention, five dollars in health care expenditure alone is saved. I repeat: one dollar spent in health promotion activity and we prevent five dollars of health care expenditure. That is called investment, investment in the health and wellbeing of Australians. This government simply does not understand the equation. To me it is a no-brainer. We need more health promotion and prevention, not less. As we know, Mr Abbott and Mr Dutton and the Assistant Minister for Health in this chamber choose to scrap all of this.

I cannot be satisfied that the abolition of ANPHA makes good, rational economics sense. Witness after witness to the Select Committee on Health has reported that cuts to health prevention programs are both short-sighted and counter intuitive. Adjunct Associate Professor Elizabeth Dabars AM, who is the CEO and secretary of the South Australian Branch of the Australian Nursing and Midwifery Federation, told the committee that:

… through the abolition of the ANPHA and the National Partnership Agreement on Preventive Health the Government is effectively walking away from its role in primary and preventive health care. Any short-term saving would result in a significant increase in demand in the long term.

Associate Professor Elizabeth Dabars knows a thing or two about health. She understands the power of prevention, which is something this government simply does not get. The debate tonight about this piece of legislation is another expression of the government walking away from the commitment it made on that fateful night before the electorate. 'No cuts to health', said the Prime Minister, yet this bill is the very expression of the most foolish, short-sighted, narrow-minded cuts to health that absolutely litter this parliament in the paperwork that these guys are putting before us.

A Deloitte Access Economics report from June 2014 entitled Benefits of credentialed diabetes educators to people with diabetes in Australia, revealed that people with diabetes supported by structured diabetes education achieve better blood glucose management and are less likely to be hospitalised for secondary complications than people who forgo education. Keeping people out of hospital, that is what we do by proper prevent. We also would be able to redress the terrible shame that Australia has the second highest level of amputation largely as a complication of diabetes. That is something we really need to attend in this country and prevention is a critical part. The report concluded that it would cost $173 to provide a full year of structured education to a person with diabetes and that every dollar spent on education would deliver $16 in healthcare savings. At the risk of repeating myself, Mr Abbott and Mr Dutton and the minister in this chamber choose to scrap all of this, with so much evidence to contrary. Clearly, evidence does not matter to this government. After all, they do not have a science minister. Who would believe in science when you continue to amplify your own prejudices?
This bill reflects the Abbott government's lack of vision for the future. Once again we see an ideological fight against universal healthcare. The abolition of this bill will mean downstream costs, more hospitalisations, more medication needed and more GP visits. The fact is we know from multiple witnesses' testimony to the select health committee inquiry that vulnerable people with chronic disease will be less likely to visit their GP if they have to pay a GP tax—and the pathology tax and the radiology tax, plus more for their medication. And that is the recipe that this government has cooked up for the sick and the chronically ill in our country. So this abolition bill could easily equate to more hospitalisation—and more very expensive hospitalisation. It just does not make sense.

All governments in the OECD actively engage in health promotion, disease prevention, public health and health protection. Most countries frame the benefits of preventive health both in terms of improving the health of their populations, including their ability to contribute to economic productivity, as well as the positive long-term financial impact on publicly funded healthcare systems. Without an overarching lead agency managing policy direction, researching best practice and engaging across all sectors and levels of government, how can Australia possibly move forward in this area?

This bill comes before parliament at a time when our health system is under an unprecedented attack from the government. It is an attack based on broken promises. It is an attack that seeks to dismantle Medicare and block access to universal health care in Australia. It is an attack that seeks to rip money away from hospitals and shift the cost of health care from the government, where it belongs and should be managed, onto the strained budgets of low- and middle-income Australians, particularly those who suffer ill health, via a perverse GP tax. That is why I stand here this evening and oppose the government's Australian National Preventive Health Agency (Abolition) Bill.

Senator XENOPHON (South Australia) (21:08): It is only Monday night but it feels like Wednesday or Thursday night in this place! I have serious reservations about the Australian National Preventive Health Agency (Abolition) Bill 2014. I understand the government's intention and its concerns about the duplication of roles, red tape and waste. Just parenthetically can I say that the government seems to have this key goal of reducing red tape but, as it was pointed out to me tonight, part IV of our competition act consists of 74 pages—20,000 words—and in the United States it is less than one page and has the same effect and in Europe it is a solid page. So, if the government were serious about red tape, it could start with competition law, which is not so much a lawyer's picnic as a lawyer's smorgasbord. The government needs to be a little bit consistent when it talks about red tape and avoiding duplication, cost to businesses and cost to the community.

There is no denying that the government has a mandate from the electorate to return the budget to surplus, but that mandate is subject to promises made to the electorate, including 'no cuts to the ABC'. We need to be wary of false economies. The measures we are talking about—not just in terms of this bill but as part of the budget more broadly—do not come from areas where you can cut the bottom line without feeling the impact down the track. It is a bit like building a house. If you want to cut costs, you can but you can do it in different ways: you can choose to have a small building maybe with some cheaper fittings—things that still function perfectly well but perhaps are not as nice as you would like—and instead spend what money you have on making sure the structure itself is solid and built to last or you can choose
to build a huge house but skimp on building products, pour a cheap foundation and hire dodgy tradespeople. In the end, either way you will still have a house. One of them might not have all the bells and whistles you want, but the structure will be there and it can be improved in the future. The other one probably will not be there at all. You might have saved money at the outset but I can guarantee you will be up for a far bigger bill in the very near future. This government has clearly taken the second option when it comes to this bill, because I believe this agency has an important role to undertake. If the agency is imperfect, if it is not fulfilling what the government considers to be the entirety of its functions, then I think that can be dealt with. That can be improved.

I think the government has taken an option that is not good for the health of Australians. Like that house, it will not be long before the whole thing falls down around our ears. Abolishing the Australian National Preventive Health Agency is only one part of the picture but it is an important one. The difficulty with preventive health, however, is that it is hard to quantify because it relies on long-term savings that occur when things do not happen rather than expenditure when they do. In their submission to the inquiry on these bills, the Public Health Association of Australia and the Australian Health Promotion Association estimated that every dollar invested in health prevention saves $5 in health expenditure. They write:

… in relation to alcohol, the reduction of alcohol supply to minors, advertising restrictions and behaviour change targeting binge drinking can prevent 14000 unnecessary hospitalizations for alcohol misuse annually. Obesity costs Australia 120 billion dollars annually, yet people who live in a walkable neighbourhood are on average 3kg lighter than those who cannot walk to school, work or around their community and every time someone rides to work—the economy benefits by more than $14.

So the Public Health Association of Australia and the Australian Health Promotion Association are concerned that the abolition of the Australian National Preventive Health Agency will reduce the already low spending on preventive health in Australia. They state the abolition:

… is a unilateral action by a single government to do away with an agreement reached between governments. It is one of a series of moves that undermine the actions that have been taken to promote preventive health in Australia. The abolition of the National Partnership Agreement on Preventive Health removed $367million over four years from public health. This is at a time when the Australian Institute of Health and Welfare estimates Australian spending on prevention to be less than 2% of overall health expenditure.

These concerns were echoed by other submitters to the inquiry. As others have pointed out, there is a strange sort of circular logic at play, where the government is abolishing this agency but setting up a fund apparently to support health research in the very areas in which the Australian National Preventive Health Agency is already acting. The future fund is an excellent idea in and of itself, but not if it is to be financed by $7 GP co-payment and savings from other existing measures—sorry, that is the medical research fund not the Future Fund; I am still in awe of Peter Costello's appearance before Senate estimates in relation to the Future Fund a few days ago. The medical research fund is a good idea, but financing it by a flawed mechanism is, I think, something that needs to be resisted. It is also a bit pointless to abolish the very agency that would be best placed to advise and support the fund in determining the best avenues for research. Writing in the Financial Review, Stephen Leeder calls this situation 'truly weird'. He goes on to say:
There is no policy that has guided the proposed cuts to federal contribution to health and education. There is no policy that led to the abolition of the ANPHA.

The proposed abolition—

These actions are not policy-based, at least not on policy as enacted in a democracy. They are ideological ideas. They depend not on discussion but on imposition. The Australian constituency is denied access to the reasoning, if there is any, behind the actions, whether they are on-water or off-policy.

So far, preventive health measures in Australia have focused on reducing smoking rates, reducing alcohol abuse and reducing obesity. But preventive health and its close cousin early intervention have far wider implications. For example, early intervention programs have been shown to have a huge impact on children on the autism spectrum. A well-funded program that uses evidence-based techniques can make all the difference to a child's life and their future, and the earlier children have access to this the better the outcomes.

Last Friday, I was in Huntfield Heights in the southern suburbs of Adelaide where I was part of the opening of the AEIOU centre in South Australia, a provider of early intervention for children with autism. AEIOU was founded by Dr James Morton, a highly regarded oncologist in Queensland. One of his children has autism. He set up the AEIOU centres—there are 10 in Queensland. They have done a magnificent job of early intervention, which makes a very big difference in the outcomes for these children. To give you an example of what early intervention and that preventive approach can do: if a child goes to an AEIOU centre on the full program, the chance of that child ending up in a mainstream school is 75 per cent compared to 20 per cent for those who do not. That is a staggering statistic and that is why it is so important that it is well funded. Unfortunately it is not, through an anomaly in the NDIS, which itself is a very worthy idea. That is another example of early intervention. In a sense, it is the cousin of preventive health.

Equally, early intervention is vital for mental health conditions. If people can access the care, support and treatment they need at an early stage, there is less chance of their condition becoming critical. This is not just good for savings in the hospital system but good for the individuals themselves. It makes a world of difference to someone's self-worth if they can continue to be part of society while receiving support and treatment.

In relation to mental health, there is a link between substance abuse and mental health. I am horrified by the number of people who have severe mental health problems as a result of addiction to ice. There is a link between cannabis and, in some cases, some psychoses or schizophrenia. There is a link between so-called recreational drugs such as ecstasy and long-term mental health problems and depressive conditions, for instance.

These are issues that this agency can and should have a powerful role in driving good outcomes in respect of preventive health. If we go further, research into gambling patterns and the behaviour of addicts has shown us that there are simple ways to adjust poker machines and therefore reduce their addictiveness. It has also shown us that certain socioeconomic groups may be more susceptible to addiction and so treatment services should be concentrated in those areas. Of course, that particular example is an illustration of how preventive health measures can be twisted—poker machine operators use that same information to target vulnerable people.
I also want to emphasise the point that the government has already essentially abolished the agency and that the passage of the bill is really a formality. I believe this can be seen as showing a disdain and a contempt for the process of the Senate, and is an attempt to present a fait accompli so that the vote on this bill becomes almost redundant. Preventive health and early intervention provide better outcomes, particularly over the longer term, in every facet of health care. Abolishing this agency goes against everything we should be working towards.

If the government is looking for savings in the health system, it should talk to people—reasonable people such as Dr Rodney Pearce, former state president of the AMA in South Australia and a co-chair of a national network of GPs representing several thousand GPs. He makes the point that if you have a collaborative approach with the medical profession, with GPs who are the front-line of our health system, you can actually drive enormous savings. When Michael Wooldridge was Minister for Health in the Howard government, he drove some very significant changes that boosted immunisation rates. I think it cost in the order of $30 million or $40 million back then. But that program delivered hundreds of millions of dollars if not billions of dollars of benefits in terms of fewer kids ending up at doctors' waiting rooms and fewer kids ending up in hospital with medical conditions that were avoided by immunisation. That is the sort of thing that we should be looking at. If only the government could collaboratively with GPs then I think we could drive some very significant savings in the health system and the Australian Preventive Health Agency could play a key role in that in bridging that link between government policy and GPs driving very good and solid health outcomes.

Preventive health and early intervention provide better outcomes, particularly over the longer term, in every facet of health care. Abolishing this agency goes against everything we should be working towards. In relation to false economies, it is interesting to look at the comments of Professor John Dwyer, who wrote in The Australian on 16 May this year just after budget. The article was headed 'Harsh cuts won't help our health' and he made the point: Expenditure on hospitals dwarfs Medicare expenditure ($140 bn v $19 bn), yet all the levers to reduce this (and solve our health expenditure problems) lie within the way we should use Medicare dollars to reduce hospital admissions. Herein lies the nub of the problems: we should actually be spending much more on primary care to reduce expenditure on hospital care—

And I dare say the corollary of that is that spending more money or maintaining a strong preventive health focus actually goes hand in hand with the sorts of measures that Professor Dwyer is talking about.

I do not think anyone denies that there are hard decisions to be made about Australia's economic future but short-term financial gain should not come at the expense of long-term socioeconomic pain. I have said it before and I will say it again: it is far better to have a strong fence at the top of a cliff than the world's best ambulance at the base of it. Equally, it is far better in my view to have an independent agency addressing these issues rather than the department. That is not being critical of the department. I just think the nature of the beast is different. A strong, independent agency in relation to preventive health is essential. We need to remove any potential bias, and the continuation of this agency is the best way to deal with that.

This bill is bad for Australians and bad for our economy, particularly in the long run. Abolishing the Australian National Preventive Health Agency is a false economy of the worst
kind. It has the capacity to cause real, long-term damage. This is not the way to deal with the problems the government is trying to solve. I will not be supporting this bill, and I call on the government to reverse its decision, re-establish the agency as an independent expert body and put it to work in a way that means we can drive savings in our health system without compromising health outcomes. We can actually get better health outcomes if we have a greater focus on preventative health. It is a good investment, as previous speakers—including you in your speech on the second reading, Madam Acting Deputy President O'Neill—have indicated. Otherwise we will wake up one morning to discover that our house, built on shaky foundations with cut-price materials, simply will not stand up any longer.

**Senator SESELJA** (Australian Capital Territory) (21:23): Before I get into some of the particular arguments around the Australian National Preventive Health Agency (Abolition) Bill 2014—and I will respond to some of what Senator Xenophon and others had to say—

**Senator Xenophon:** Please do.

**Senator SESELJA:** I will, but there was an element of your contribution, Senator Xenophon, that I wanted to join with you in raising. It is slightly tangential, but it is a very important issue, and that is the issue around early intervention when it comes to autism, particularly taking note of the AEIOU Foundation and the great work that they do.

**Senator Xenophon interjecting**—

**Senator SESELJA:** That is an important issue that I think does need to be looked at, but can I say on the record how important I believe the work of groups like the AEIOU Foundation is for dealing with the issue of autism, for supporting families. I cast my mind back to the last ACT election, when the ACT opposition at the time had a policy of supporting autism early intervention schools such as those run by the AEIOU Foundation in Canberra. I have had the opportunity to visit the school up in Brisbane, and it does an outstanding job. The issues round the NDIS have been just recently raised with me. Certainly they are something that is on my radar, because, as the NDIS is implemented, we do not want to see it impacting on great existing services. It is a very legitimate point, and I think I am due personally to meet with the CEO of the AEIOU Foundation to discuss that soon. I will be taking that issue up, and I do take that very seriously. So I thank you for raising that, Senator Xenophon.

At the heart of what those opposing this bill have been arguing is: if you do not have a preventative health agency, you are not into preventative health. I reject that absolutely, and the government rejects that absolutely. It is not based in fact. It is completely fallacious to suggest you need a specific preventative health agency in order to do good work in preventative health. My committee heard this. Whilst many of the groups came and said, 'We need to keep the Preventive Health Agency,' when they were pushed on some of the successful examples of preventative health in this country, most of them occurred when there was no Preventive Health Agency. They occurred without needing this particular agency. So let us completely put to bed this idea that you abolish the National Preventive Health Agency and you do not support measures in preventative health, because that is rubbish.

We have seen, over decades, great examples of public awareness campaigns in a range of areas which have been highly successful which did not need the Preventive Health Agency to exist or to run them. Even one of the proponents of keeping this body who came before our
committee, Professor Michael Moore, acknowledged during the hearing that a number of these public awareness programs had been successfully conceived and executed by both state and Commonwealth prior to the establishment of ANPHA. These programs focused on a range of preventable diseases and conditions, including road trauma, use of tobacco and HIV-AIDS. They were some of the examples that were put forward by Michael Moore as the gold standard of what had occurred for preventative health, and they did not need a Preventive Health Agency. I will quote from Michael Moore:

... we actually can see ... each of the interventions and the impact they have—the dropping of the speed limit, the introduction of alcohol breath testing and so forth. You can apply exactly the same thinking to things like obesity, because there was a personal responsibility absolutely fundamental in terms of how people drive, how you would train them and so forth. But a government responsibility was also recognised ...

Nothing changes if this legislation goes through. Nothing changes in relation to the government's attitude to preventative health if you abolish the agency. All of those factors can be there. Examples were highlighted by Michael Moore and others. If we look at the successes, most of us would acknowledge some of the efforts in relation to reducing the rate of smoking in this country. Those efforts did not need the Preventive Health Agency in order to achieve that. What they needed was will from government and/or governments to say: 'We acknowledge that smoking rates in this country are too high, that they are detrimental to the health of our nation, that they are very costly, that there are significant flow-on costs of higher rates of smoking. We want to see young people not taking up the habit. We want to see adults quitting and being helped to quit.'

So we have seen a range of measures. Those types of measures will continue, because this government remains committed to preventative health. It remains committed to those kinds of public awareness campaigns, public education campaigns. We can look at a range of others, perhaps in relation to the dangers of illicit drugs, for example. As a parent I don't think that in this country at the moment there is enough being done to warn our children of the dangers of illicit drugs. I think that there are some in the establishment who would see sugar as a far greater danger to our children than some illicit drugs. I think there has been some laxity in some areas in relation to the danger that drugs such as ice, cannabis and other illicit drugs pose to particularly our young people.

As we look at any number of those types of campaigns we have not needed a Preventive Health Agency in order to achieve that. This was put to the department. As I say, even some of those proponents of this agency—those who would oppose this bill—acknowledge that the best examples of preventive health have come outside of a specialist agency. This fallacy should be seen for what it is and should be called for what it is. It was put to the department and the department explained that it will maintain engagement with stakeholders through a series of specialist advisory and consultative groups. I quote from the report:

[The Department has a very strong engagement across all areas of prevention, with key stakeholders. That has not changed at all. There was one key group that related to disadvantaged groups, around tobacco consumption and the like. That was a separate advisory committee that was set up by ANPHA. We have taken on the responsibility, and we are continuing that committee, as well, in the Department.]
Again, it is an example that you can be committed to preventive health without needing a Preventive Health Agency. The Preventive Health Agency is a recent phenomenon. In fact, preventive health was not invented when the agency was set up.

The committee also noted in the report generally the focus on outcomes in preventive health rather than a specific delivery model. I think that that is an important point. It is about outcomes. It is about what is being done; it is not about whether or not it is being done through one particular type of bureaucracy or one type of government program versus another.

What we are really interested in are outcomes, but when we see a situation where bureaucracies from states and territories are not coordinated well and there is not an independence to ensure that they are coordinated, then we see that there is an importance for some independence and also a specific focus where we need to see how they can be coordinated. I think that when we look at this issue and we look around preventive health policy, yes, there are some who will argue for one particular model over another. But, as I say, even the likes of Michael Moore—and I am not trying to verbal Michael Moore. I acknowledge that if Michael Moore were here—in fact, he used to be in the ACT assembly and he would have argued these sorts of things when he was in the ACT assembly—I will say that, if he were here tonight, if Michael Moore reads the *Hansard*, he would be arguing for the keeping of this agency. There is no doubt. So I am not seeking to verbal him. Let it not be said that I am seeking to verbal Michael Moore. But even he as a proponent of this agency acknowledges and acknowledged before the committee that is not the be all and end all. Those were not his words. Very solid examples—in fact, some of the very best examples that we have seen in relation to preventive health—have occurred outside of a specific Preventive Health Agency.

It must be said in the context of what this will achieve, yes, there is a saving of $6.4 million over four years and approximately $2.6 million per annum ongoing. We should always be looking for better ways of doing things. This government believes that the model that we have had is not the best way of doing things. Those savings, of course, can either be taken off the debt or, over time, as you see ongoing savings and if our budgetary position is better, it might be that there is more scope for better targeted preventive health measures. The government remains committed to those across the board.

We know that we have seen some failures from this particular agency. We do not need to dwell on them but there were some flops when it came to preventive health. We saw the study into fat taxes which nobody wanted. I do not think that would have occurred in a government agency that was part of the department. We have also seen things like sponsoring the Summernats burnout competition. Things like the fake music festivals, which were such a flop. We do not need to dwell on those things, but clearly this has not been a resounding success.

What will be a resounding success is if the government continues to be committed, as it is, to funding measures that work so that we can see our health outcomes getting better and where the government is in a position to educate the community, particularly to assist young people, which I think is most important. I do not think we should spend all of our lives as a government, I do not think the government should spend all its energy, telling people that certain things are bad for them, because in the end I know that adults for the most part do understand many of the things that are not good for them. Where there are gaps in the knowledge, of course, the government should be making sure that those gaps in the
knowledge are not there. But, let's face it, most adults by now know that if they do not exercise, if they eat too much fatty food, if they smoke, they are putting themselves at risk of serious things—of cancer and other serious complications. I do not think we need to constantly labour the point with adults. But where there are gaps in the knowledge of young people, there will continue to remain an important role for government to play in preventive health—to lower costs in our health system, to increase life expectancy, to increase the quality of life of Australians. Those are all good things.

But let us not fall for this falsehood that has been put by a number of speakers in this debate, and that is that if you abolish a particular agency, which in our view has not been a success, that you are somehow undermining the health of our nation or you are somehow not committed to preventive health. Those statements are false. They do not follow. They are not logical. As I say, even some of the opponents of this legislation, even some of the proponents of this agency, would acknowledge that it did not take a Preventive Health Agency to see wonderful work done on lowering smoking rates in this country. It did not take a preventive health agency to see campaigns in relation to HIV-AIDS. It did not take a preventive health agency to give us campaigns on lowering road trauma around speeding, drink driving and other safety factors. All of these things have been resounding successes—in fact, we as a nation should be very proud of the work that we have done over decades in this space—but it has not taken this particular model to get us there. This is a recent model, and we have not seen anything like those kinds of significant results. Those opposite would argue that if we stuck at it for five, 10 or 15 years we might. We believe that it is not about the particular model; it is about a commitment and it is about using evidence to work through what works—what are the messages that will actually work; what are the messages that will hit home with our young people—so that we can warn them off drugs, warn them off binge drinking, warn them off other risky behaviour and warn them off smoking.

I do not want to see my kids smoking; I do not want to see my kids using illicit drugs; I do not want to see my kids binge drinking. I have a role, of course, as a parent, and we all have a role as individuals to be doing that. I think that point does always need to be made—that personal responsibility is very important—but I acknowledge, and the government acknowledges, that the government does also have a very important role to play. The government will continue to play that very important role. It will continue to play that role if this legislation goes through because the measures will be there, because the department is tasked with these programs for education and the like to ensure that preventive health continues to be a key focus for the government.

I commend the bill to the Senate. I think that the savings are important, but streamlining the delivery of preventive health is also important. We believe there is a better model. We believe that this model has not worked; therefore, I commend the bill to the Senate.

Senator NASH (New South Wales—Deputy Leader of The Nationals in the Senate and Assistant Minister for Health) (21:39): I thank all senators for their contributions to the debate on the Australian National Preventive Health Agency (Abolition) Bill 2014. Of course the bill we are debating today will abolish the Australian National Preventive Health Agency, an agency established to develop policy on alcohol, obesity and tobacco, despite the ongoing role that the Department of Health can and must play to lead the government's efforts to address preventive health, and an agency which was solely funded by the Commonwealth,
requiring extra costs in administration and governance and creating duplication of policy effort. I note Senator Seselja's excellent contribution on this bill here today.

Closing the ANPHA will cut red tape, reduce unnecessary bureaucracy and save millions of dollars each year. These savings come from operational expenses—no funding has been cut from the program funding that was appropriated to ANPHA. This funding has been transferred to the department and ongoing measures have been reintegrated into the department. I am pleased to reiterate that the Senate Community Affairs Legislation Committee inquiry on this bill concluded that the transfer of ANPHA's roles and responsibilities to the department should not result in any diminution of the commitment to preventive health programs and policies, and that the committee recommended that the Australian National Preventive Health Agency Abolition Bill (2014) be passed.

Closing the ANPHA does not reduce the government's commitment to prevention. We do not need a separate agency to commission research or to undertake activities to address particular prevention issues. A separately established and solely Commonwealth-funded agency is not required for public health issues to have a priority, including issues concerning alcohol, tobacco and obesity. Again I note Senator Seselja's comments—he did indeed address those issues directly. What we do need is to make sure that our prevention policies and programs are evidence based and that they are integrated with other investments in the health system and with other government priorities. The new arrangements will achieve this while streamlining and better coordinating the government's preventive health efforts and producing savings that can be more effectively directed.

I am pleased to confirm that the transfer of ongoing functions and programs from ANPHA back to the Department of Health has been managed smoothly, with no interruptions to the measures or to the government's commitments to the stakeholders involved. The government has a track record of supporting preventing health initiatives that have led to improved population health outcomes. We initiated action in the late 1990s to improve immunisation rates to their current levels. Between 1995 and 2007 the immunisation rate among our children went from 52 per cent to over 90 per cent. It was a previous coalition government that began the national bowel cancer screening program back in 2006, and we have committed funding to fully implement a biennial screening interval for all Australians aged 50 to 74.

The government supports effort where it is going to make a difference over the long haul. The health impact of lifestyle risk factors is gradual, and the effort needed to turn them around is also a long-term commitment that requires coherent policy. Numerous short-term programs will not have the sustained effect that is needed. There is no doubt that many Australians are overweight and obese, that some continue to smoke despite the clear evidence of its harms and that alcohol misuse can lead to short- and long-term harms to individuals and to the community. Obesity, smoking and alcohol misuse can lead to poorer health outcomes, particularly in Indigenous communities, and this has the potential to increase the long-term burden on the health system, a system we are committed to putting on a more sustainable footing for the future. Addressing alcohol, obesity and tobacco requires all Australians to take personal responsibility for their behaviours. The government will continue to support Australians in making healthy lifestyle choices, including by raising awareness of the issues and helping people to manage their behaviours and health conditions.
The coalition has a long track record in being successful in lowering smoking rates. It was the current Prime Minister who, as the health minister, introduced graphic warnings on tobacco packaging that helped contribute to a significant decline in smoking rates.

Essential ongoing programs, such as the National Tobacco Campaign which previously transferred from the Department of Health to the ANPHA, have returned to the department. From 31 May 2014, a new tranche of the National Tobacco Campaign was run, with $4.6 million in advertising targeting those sections of the community where smoking is more entrenched. These include rural and regional communities, some culturally and linguistically diverse groups, and Aboriginal and Torres Strait Islander people. The campaign promotes tools that will support people attempting to quit smoking.

We recognise that more work is needed to encourage still more Australians to quit smoking. The budget includes ongoing funding for the campaign, which will continue to focus on those groups who are disproportionately affected by tobacco use. The campaign is designed to work in parallel with other initiatives, such as tobacco excise increases, plain packaging of tobacco products, labelling of tobacco products with updated graphic health warnings, restrictions on tobacco advertising and promotion, and provision of support for smokers to quit.

The government also subsidises some nicotine patches and other smoking-cessation therapies through the Pharmaceutical Benefits Scheme. These products are available at a reduced price for eligible patients with a doctor's prescription. The Australian government is tackling obesity on a number of fronts. In recognition that obesity is a complex issue, the government is addressing it through a range of activities to encourage people to lead healthier lifestyles, through increased physical activity and a healthy diet.

In this year's budget we committed $100.3 million over three years for the Sporting Schools Initiative. This initiative will encourage school aged children to participate in sport based physical activity before, during and after school. In addition, the government funds a range of guidelines and resources to promote behaviours that support a healthy weight, including the revised national physical activity guidelines, which are in line with new international evidence, and a healthy weight guide, which is a web based initiative that provides information, tools and assistance for consumers. The 2013 Australian dietary guidelines provide recommendations for people to limit the intake of saturated fat, added sugar and added salt in their diets, and the Eat for Health program provides evidence based guidelines as well as educator and consumer nutrition resources.

More broadly, the government is working with key stakeholders, including non-government organisations, health professionals and the food industry, to promote healthy living and assist consumers make healthier food-and-lifestyle choices. The Australia and New Zealand Ministerial Forum on Food Regulation, at its June 2014 meeting, agreed on the implementation of a voluntary front-of-pack labelling system for packaged foods.

Many in the industry have indicated they will be implementing the health-star rating scheme and it is expected that labels will appear on products in the coming months. A government-led social-marketing campaign to support industry implement the health-star rating system will be shortly announced. It will assist consumers understand and use the system when making healthier food choices. The front-of-pack food-labelling system will
assist consumers make healthier food choices, and it is anticipated that this will help contribute to the reformulation of food.

The government continues to work with states and territories, parents and communities as well as with the alcohol industry in the challenge to encourage responsible consumption of alcohol. The government is also working with non-government organisations, health providers and industry to support women make healthy lifestyle choices during pregnancy and to promote awareness of the risks of consuming alcohol during pregnancy.

The government has provided $200 million this year for treatment services, education and research for alcohol and other drugs, allocated $19 million for the Good Sports program in the budget, $9.2 million to the FASD Action Plan and announced new funding for Danny Green's coward-punch campaign and the successful Hello Sunday Morning program.

This government's commitment to evidence based preventative health activities has been further strengthened in this year's federal budget. In addition to the Sporting Schools Initiative and the Good Sports program, the government is fast-tracking the full implementation of the National Bowel Cancer Screening Program, building on the successes it has achieved to date.

Debate interrupted.

ADJOURNMENT

The ACTING DEPUTY PRESIDENT (Senator Whish-Wilson) (21:50): Order! It being 9.50 pm, I propose the question:

That the Senate do now adjourn.

Solomon Islands: General Election

Senator REYNOLDS (Western Australia) (21:50): I rise to speak on last week's general election, of 19 November, in the Solomon Islands. Last night I returned from Honiara, where I was privileged to support democracy in the Solomon Islands as a member of the Commonwealth Observers Group. Commonwealth members, along with the Pacific Islands Forum, were invited by the Solomon Islands government as official election observers. This was the Solomon Islands' seventh election since independence and third since the end of 'the troubles' and the commencement of the Regional Assistance Mission Solomon Islands, or RAMSI. This unique regional partnership has indeed Helpem Fren.

Commonwealth Observer Group teams were deployed across five provinces, covering the majority of the 50 seats, as part of a seven-day mission. This included Western Province, where I was located, Isabel, Central Province, Malaita, Guadalcanal and Honiara City itself. International observers received a warm and typically friendly Islander reception right throughout the mission, and we had the privilege of engaging freely and frankly with Solomon Islanders from all walks of life.

Having worked in Melanesia for the past few years on several democracy-strengthening programs, I was thrilled with what I saw, what I heard and what I experienced throughout the mission. There was general consensus amongst international observers that the election was conducted in a peaceful fashion and voters appeared able to cast their votes freely on election day. The people of the Solomon Islands are to be congratulated for turning out in force to exercise their right to vote and for taking up the opportunity to play their part in determining the future of their nation with such enthusiasm.
I was present at the commencement of RAMSI in the Solomon Islands back in 2003, and I witnessed firsthand a country divided and severely degraded by 'the troubles', but I am delighted to report to the Senate that the Solomon Islands today is a very different place to the country that I visited over a decade ago. It was absolutely wonderful to witness people there participating peacefully, enthusiastically and freely in these elections.

The outcomes for all 50 seats have this evening been finalised, and I understand that in the new parliament there will be 32 independents and 18 members of five separate parties. Once the official results are declared by the Governor-General, negotiations will commence between all newly elected members to form a new government and appoint a new Prime Minister. I am optimistic that, while robust, the discussions and negotiations will be conducted by the newly elected representatives as peacefully and purposefully as the ballot was last week.

In my experience, postconflict democracies typically take decades to establish or to rebuild civil society and the supporting institutions that are required for a stable and healthy democracy. The Solomon Islands have come a long way in the last decade, and, with the assistance of their regional RAMSI partners, they are making significant progress. However, the country still faces very significant challenges on many fronts, and they have a very long journey ahead of them—one that I believe will require ongoing but changing and evolving support from their regional partners and, in particular, from Australia. I will address Australia’s involvement, through RAMSI, in this process in a subsequent speech to this place.

Being based in Gizo in the Western Province, travelling between booths on banana boats and almost needing the emergency beacon that was provided to me by the high commission, I witnessed firsthand the significant logistical challenges faced by the Solomon Islands Electoral Commission in organising and delivering election materials to all polling stations. The Solomon Islands Electoral Commission is to be commended for preparing the country’s 2014 elections so effectively, especially in the light of significant resource constraints.

The polling officials that I observed displayed professionalism and integrity, and they ensured that the voting process on the day was well organised. I observed them working very hard to make sure that voters were able to cast their votes in a transparent, very orderly and peaceful manner. Given my own recent experiences with our own electoral commission here in Australia, I also paid particularly close attention to the counting of the ballots and the chain-of-custody procedures, which, I am very happy to report, were also equally robust.

Gizo and its surroundings are a breathtakingly beautiful part of the world, and are also the location of Prime Minister Lilo’s own seat. Therefore, I had the opportunity to very closely observe preparations and the conduct of the ballot in his seat, across 12 polling booths in three islands. I witnessed the count, but I also witnessed their methods of reconciling and securing the ballot papers and all of the associated paperwork. I also observed the very long and very meticulous 12-hour count of the vote, and I was genuinely impressed by the rigour of the process adopted by the polling officials. In this particular seat, I concluded that the will of the electorate was well and truly reflected in the declared outcome. I note that the Prime Minister, who was not successful in getting re-elected, has also accepted that the result was the will of his electorate. The new biometric voter registration process clearly raised confidence in the integrity of the roll itself. I commend the electoral commission, and I was, again, impressed with this process.
Very significantly, I also witnessed the important role played by the Royal Solomon Islands Police Force, which was very ably but very quietly supported by the international Participating Police Force. I was also, as I think our group was, very impressed with the security arrangements that were put in place for the election, including a week-long alcohol ban. The highly visible, but not intrusive, nature of the RSIPF during polling day and the ongoing count really gave people the confidence to fully exercise their democratic rights on the day. We were also very impressed by community leaders, who were encouraging voters to engage in a peaceful process and not to be persuaded by any offers of buying votes or corruption.

Sadly, however, only 26 of 447 candidates were women and no women were successful in that election. They now have no women in their parliament. Like the group, I was deeply disappointed that—despite the passage of the recent Political Parties Integrity Act and the Solomon Islands’ ratification of international agreements encouraging greater participation of women in the electoral process—there remain significant cultural and institutional impediments to women successfully standing for election.

All 15 members of RAMSI, and particularly the thousands of Australian men and women who have supported RAMSI and other bilateral support programs over the last eleven years, should be extremely proud of their efforts and their contributions to this successful result. I believe that we have indeed worked together to 'helpem fren'. My comments, however, in no way downplay the significant challenges that still face the Solomon Islands, but again tonight is not the time for that. I will address those in later speeches.

Finally, my sincere thanks to the Commonwealth Secretary-General for affording me this privilege and to the wonderful Commonwealth Secretariat team for their professional, friendly and very helpful support throughout the process. I would also like to thank our Australian high commissioner Andrew Byrne and his staff for their timely and professional in-country support and, as I said, particularly for the emergency beacon.

I conclude tonight with a message to all of our friends in Solomon Islands: me gat plenti hammamas tudei long kry out to all man na Mari na pikinini bilong Solomon islaus. Me pella sendum kongratulations long yu altogether long disela peaceful election bilong u pella. De fella election process bilong yu, emi outstanding.

The PRESIDENT: Thank you, Senator Reynolds. I wish I could respond appropriately, but I cannot.

Forno, Mr Wayne

Senator DASTYARI (New South Wales) (21:59): I rise to mark the occasion of the retirement of my good friend, my ally and—dare I say it, Senator Bullock—my comrade, Wayne Forno. Wayne recently announced his retirement as the New South Wales state secretary of the Transport Workers’ Union. It is appropriate that I congratulate incoming secretary Michael Aird at this time, and I just want to say well done, Michael. I know you will carry on Wayne’s legacy of strong leadership. Yet, in following Wayne Forno as secretary of the union, Michael has big shoes to fill and a grave responsibility in providing strong industrial representation to the men and women who keep New South Wales moving.

While there are a few things I want to say about Wayne tonight, I do want to say that, on a personal level, I will forever be indebted to Wayne. There is no doubt that, in my previous
role as a party secretary or the many previous roles before that, I was always able to count on the undying, total, complete support of Wayne in everything that I did, and I will be forever grateful for it.

I will tell you a bit about Wayne and his extraordinary history of service to the labour movement, both at an industrial level and as a respected elected representative and campaign director for the Australian Labor Party in Western Sydney. Wayne grew up in Granville and was influenced in his early activism by local Labor icon Jack Ferguson. Granville was also where he went to school, educated by the Patrician Brothers. His father, Cedric, was a wharfie and another strong influence in Wayne's engagement with the labour movement. He has been married to his lovely wife, Dianne, for 38 years. Together they have two grown-up children, Shane and Kelly, and a 12-year-old dog, Missy. Wayne's overfastidiousness regarding personal hygiene earned him the tongue-in-cheek nickname that he carries to this day: 'Filthy'.

He was known for being meticulous about making sure his clothes were clean and tidy at all times. Yet, as an individual, Wayne is best known for his honesty, his integrity and his sheer doggedness.

A lifelong trade unionist, Wayne started work at the age of 15 at Custom Coaches in Villawood and became a member of the Vehicle Builders Union. By the time he was 19, Wayne had developed a strong reputation for advocacy as yard delegate, with more than 100 workmates. His working life has involved hands-on labouring with a range of employers, including at the old abattoir in Homebush. He also worked at Prospect County Council and later on the construction of the Lithgow electricity substation.

Now a long-time Penrith local, Wayne also served his community as the local Deputy Mayor and as a Penrith City councillor from 1987 to 1995. He was universally regarded as a great local representative, particularly for his work in the St Clair area. His engagement in politics has been characterised by strong commitment to the values of local representation and community building. Wayne's contribution as a councillor was recognised in the award of a certificate from the Local Government Association for services to the community and a Commonwealth Centenary Medal for community service and local government. Wayne also served on Prospect County Council.

When the Carr government was elected in 1995, Wayne played a hugely important role as local campaign director in the election of Diane Beamer as the member for Badgerys Creek. The resurgence of the party in Western Sydney, and particularly the campaign that Wayne ran, was fundamental for delivering government to both Bob Carr and his Labor team. In fact, Badgerys Creek, the campaign that Wayne ran, was won by just 107 votes, and the Carr government's parliamentary majority was just one seat after the election. Diane Beamer went on to serve the party with distinction throughout a long parliamentary career, including as a New South Wales government minister.

Wayne became the New South Wales state secretary of the Transport Workers' Union in 2009 when his other friend and colleague, Tony Sheldon, moved to the national office. However, his tenure at the union actually began more than twenty years ago in 1993. After starting out as the union's superannuation officer, Wayne quickly became an official, including working as a senior official for the milk, fuel, waste and bus industries. This involved representing union members in negotiation with companies such as Linfox, Toll and
StarTrack. He rose to the office of Sydney sub-branch secretary in 1998 and became assistant secretary in 2002.

Wayne's real-world industry experience fitted him for the high calling of representing workers through the trade union movement. His achievements include fighting for the 15 per cent fair wages campaign for the bus industry, an instrumental role in organising bus drivers during the Sydney Olympics, securing a landmark agreement for StarTrack employees across all New South Wales worksites and standing up for owner-drivers against the Howard government's unjust Workplace Relations Legislation Amendment (Independent Contractors) Act 2006.

Wayne's outstanding leadership on the Safe Rates campaign deserves particular recognition. This significant and ongoing campaign is aimed at improving safety for both truck drivers and the broader community. It looks at the impact of industrial issues on road safety, including top down pressure on drivers to meet impossible deadlines. Safe Rates was recognised in law through the passage of the Road Safety Remuneration Bill 2012 in this very place on 16 April 2012. The recognition demonstrates the strength of the Transport Workers' Union's broad-based approach to action on pay and conditions.

It was Wayne's strong record of achievement for workers and commitment to collective action that resulted in his ultimate ascension to the position of New South Wales secretary of the Transport Workers' Union. The union has lost a fine leader who can be proud of a successful career that has benefitted workers across Australia. On a personal level, I want to use this opportunity to say: Wayne, as a friend and as a brother, thank you. Thank you for your support, thank you for your friendship, thank you for your loyalty and thank you for the complete and utter faith you have always shown in me. I wish you and I wish your family the very best in future years.

**Body Image**

Senator WRIGHT (South Australia) (22:07): Tonight I am going to speak about an issue which has troubled me for some time. I know it is of concern to many people in this place and throughout Australia. Poor body image is becoming an increasingly common mental health issue all around this country.

I want to begin by telling Sarah's story. Sarah started having body-image and weight issues at the age of nine, when she began to think of herself as being overweight. She started having trouble at school which led her to become preoccupied with controlling her weight. These tremendously overwhelming feelings left Sarah depressed and she finally tried to take her own life. Going to hospital ultimately saved Sarah's life. She was so underweight her heart, liver and kidneys were shutting down; doctors gave her 24 to 48 hours to live if she did not accept help. Sarah spent three months in hospital and put on nine kilograms, and fortunately she is now living a happy and healthy life. What her story shows us is that the impacts of poor body image are life-altering and can stay with people throughout life.

In thinking about what I wanted to explore tonight I am indebted to one of the foremost organisations working in the field of body-image disorders and eating disorders in Australia, the Butterfly Foundation. Regrettably, various surveys and data indicate that body dissatisfaction has become a cultural norm in Australia and body-image problems have increased worldwide over the last 30 years. Negative body image is caused by an individual
having low self-esteem, anxiety and feelings of withdrawal from social groups and family due to feelings about their body. Devastatingly, these feelings are now affecting children as young as four years old in Australia. Body dissatisfaction is one of the top three concerns of young people and the top concern for young women.

Given that negative body image is also a precursor to eating disorders, this is something all of us here in the parliament should be informed about and engage with our communities about. Approximately half of all adolescent girls are trying to lose weight and practice extreme weight loss through fasting, self-induced vomiting and smoking. However, this is not only an issue among young girls and women. The number of males who are beginning to obsess about their body shape and size is also increasing significantly. In fact, a South Australian Office for Youth survey about body image found that among male and female respondents, about 83 per cent had concerns about their body image. The survey asked them what would help them feel more positive. Fascinatingly, the idea of realistic bodies being depicted in the media was more important than any other influence by more than half. This is a startling statistic, and the idea deserves careful consideration about how we could implement it.

I acknowledge that poor body image and eating disorders are the result of a combination of factors. They are complex, multifactorial conditions. But it is clear that one particular and insidious influence is that of the media and the marketing of fashion and beauty. The constant public manipulation of images is, these days, prolific, and leads to the idealisation of unrealistic and unattainable beauty and body shape. It has ever been thus; but the advent of new technology and new techniques makes falsifying images as easy as the click of a mouse and basically undetectable. This has certainly contributed to the problem.

Recently, Meaghan Kausman, an Australian model, made international headlines for publishing a 'before and after' photograph of a swimwear campaign she was featured in. She was honest: the company had Photoshopped her torso, making her slimmer, and shaved shape from her arms and legs. That made strong waves at the time but unfortunately her strong advocacy about the issue of photomanipulation apparently had little lasting impact and has been quickly passed over. The impact of photomanipulation is troubling, and what is especially concerning is the number of Australians who compare themselves to these images without having any idea about the degree of change which has been made. Through my engagement with the Butterfly Foundation I have personally become much more aware of this as an issue.

ReachOut is another effective and lifesaving organisation assisting young people with mental ill health. They shared Jessica's story with me. Jessica cannot remember a time she was not self-conscious about her body. She even remembers hiding in the bathroom crying to herself when she was young, thinking she was fat and ugly. At the age of 11 Jessica started skipping meals and a few years later she taught herself to purge. She isolated herself from everyone, not attending school and hiding away in her bedroom. Ultimately she felt so much pain she began self-harming. By the time she was 16, Jessica's condition had started to spiral out of control. Thankfully one of her friends knew the signs, as she had also suffered from the condition of anorexia nervosa. Jessica's doctor organised an assessment with an eating disorder clinic. Initially Jessica refused to go; she was adamant there was no problem because she was a size 12. Like many others, Jessica wrongly believed you have to be underweight to
have issues with food. However, with the help of her family, her friends and ReachOut Jessica is now on her way to recovery. Jessica was one of the lucky ones. Treatment and services for people experiencing eating disorders in Australia are grossly underprovided and there are often long waiting lists, affecting people's ability to get the evidence based treatment they need for recovery.

Like many other countries, Australia has tried voluntary regulation of photomanipulation. A voluntary industry code of conduct on body image was released in 2009 by the Australian government in response to the National Body Image Advisory Group. A key recommendation made by the group was to establish a code to provide fashion, media and advertising industries with guidelines for the endorsement of healthy body image. The code advocated diversity in the selection of models, a wider range of clothing sizes in retail fashion and disclosure when images have been digitally manipulated; however, the Chair of the Body Image Advisory Group, Mia Freedman, stated in an ABC broadcast in January this year that the code, unfortunately, has not worked. The Eating Issues Centre conducted a study to see whether magazines were adhering to the voluntary code. They found that only three of the 10 magazines included in the study were upholding the code.

This poses the question of whether we should go further. Regulating photomanipulation is difficult. Where do you draw the line between general image correcting and harmful body manipulation or distortion? Photo editing can be a legitimate part of the artistry of photography. This makes any form of regulation difficult and definitions are challenging.

Israel is the only country, I am aware of, which has adopted laws to regulate photomanipulation and which has enforced health standards for the modelling industry. However, these laws have not yet been enforced. Although this may be problematic, it is important that we recognise the substantial impact a negative body image can have—and think about the role of the media in portraying what is unrealistic body image as a reality to impressionable, particularly young, people. Organisations such as the Butterfly Foundation are doing excellent work with high-profile Australian media and fashion industry members to achieve cultural change by calling out misuses of Photoshop by the media.

Warning labels may be one answer. In 2012 the Journal of Social and Clinical Psychology published an experimental investigation into the addition of warning labels in fashion magazines. It focused on women’s moods and body dissatisfaction. The results revealed that participants who viewed images with a warning reported lower levels of body dissatisfaction. These findings were the first to show that warning labels eliminated some of the negative effects of digitally manipulated images.

The Butterfly Foundation has also recognised the impact of individuals manipulating their own images for social media. I was very pleased to be part of their launch of the LoveYourBody campaign earlier this year. I believe it is vitally important that we acknowledge the effects of photo manipulation and continue to encourage both greater awareness around manipulated images and promote positive body image and people being proud of who they are whenever we can.

Water

Senator CANAVAN (Queensland) (22:16): Thanks for sticking around tonight to hear the blazing insights I will have at a quarter past 10 on a Monday evening. I also want to thank the
hard-working girls in the Whip's office, Charlotte and Bec. I know they are just as keen to hear those blazing insights.

I have racked up about five months in the job here so I suppose I am through probation. I have not had a performance review from you, Mr President, yet—not that I am complaining about that.

The PRESIDENT: It can be provided.

Senator CANAVAN: I wait with bated breath. I often get asked: how do you find the job? How is it going? I often tell people the hardest part of the job is the travel and the best part of the job is the travel. I have been fortunate enough to travel around the great state of Queensland quite a bit in my first few months. It is hard because I am away from family, but it is a great honour too because I get to meet new people and hear about their issues and try and do my best to do something about them.

I want to briefly outline a visit I made two weeks ago to Western Queensland. I went to Dalby, to Roma and to St George. All those places had their own issues and problems that needed addressing. I want to focus on St George tonight. It is a place I know relatively well, having worked for a former senator in this place, Senator Barnaby Joyce, who used to live there.

St George is undergoing a great change at the moment through the Murray-Darling Basin Plan. St George is a town that is built on irrigation. It is an area that God made to grow food and fibre. It has beautiful rich soils. Massive amounts of water flow through the Balonne River and bifurcate over the flood plains in that region. There are great engineering marvels that exist to capture that overland flow and to store it. They then grow crops of rock melons, onions, wheat and, of course, cotton. It provides thousands of jobs. There are about 5,000 people who live in that district that includes Dirranbandi and Hebel. There is an enormous amount of production. In some years up to $1 billion in agricultural production comes from that area.

But at the moment we are reducing the amount of water used across the Murray-Darling Basin including in this region and that is hurting some of these towns. We have always recognised that more water does have to go back to the environment but it does come at a cost. Under the Basin Plan, about 100 gigalitres of water has to be reduced in use from the Condamine-Balonne basin. That is a catchment that extends from just west of Toowoomba at Dalby all the way down to the border of New South Wales passed Dirranbandi. That will become more important as I talk about a few things.

The government has already acquired just over 50 gigalitres of water so we are about halfway there in that process. When I went out there a couple of weeks ago, businesses were hurting because of that water acquisition buyback. They use about 400 or 450 gigalitres a year from the whole catchment. St Georges uses less than that. But 50 gigs has come from just below St George and St George and it has had a huge impact on the business in those areas. It is not the irrigators or the farmers that that I, my Nationals colleagues or former senator Joyce have the greatest concern for. It is not the farmers that are the issue. When they sell their water, they get a cheque. When they sell their water, they do so in a voluntary market which the government pays for. They can decide what they do with their lives after
they sell that water. They can move to the Gold Coast if they like or they can diversify into other crops.

The people who get left behind do not have a water licence so the hotel owners, the tyre shop owners, the agronomists, the Elders store, do not get a cheque from the government, but their businesses rely heavily on the agricultural production that underpins the region. So when you take the water away and take the agricultural production away, you take the rug from underneath those businesses and that is why they are hurting.

I want to raise a few issues that I have also raised with the water minister, Senator Birmingham. He is very aware of these issues. When the former government put in place the plan, we in the coalition called for a cap on buybacks. Because of the costs of these buybacks from towns, we said that we should only buy back about half to two-thirds in water. The rest of the savings we should achieve through getting better and more efficient with water use, so we should line channels, we should laser level fields and we should deepen our water storages to reduce evaporation. All those things will still reduce water use and help the environment but they will also help keep that agricultural production there and keep businesses there. But of that 50 gigs that have been acquired from St George, only four gigalitres out of the 50 litres—less than 10 per cent—have come from those water efficiencies so far. The other 46 gigalitres have come from water buybacks and that is why these people are hurting. So there needs to be—the plan should be finalised by 2019—a greater emphasis in my view on the Condamine-Balonne region on those water efficiencies. That can happen. There is potential to do those things.

There is still potential to make deeper water storages. There is a dam there, which a lot of water is stored in, near St George, called Beardmore Dam. Its average depth is just 2½ metres—not much deeper than a suburban swimming pool. That leads to a lot of evaporation. You get about two metres of evaporation a year in those areas. So, if the dam is full at the start of the year and it does not rain, it will be pretty much empty by the end of the year in St George. Instead of storing it in the dam, you can store it in big ring tanks, which can be eight metres high. The ring tanks are basically above ground swimming pools, and they can build them up to eight metres high very easily, and that will cut evaporation. It will have a smaller surface area and save water. There are also things that can be done with the SunWater scheme there, and some more pipes that can be put in. We can also do things to shepherd water down—that is a very technical thing—but we can buy water upstream around Dalby and Chinchilla. Through the conversion and trading of licences right down the river, we can still get that water down to where the environmental assets are, and I want to talk briefly on those.

The reason we are buying the 100 gigalitres of water is to water two key environmental assets—the Narran Lakes and the Culgoa floodplain. The Narran Lakes are in New South Wales and the Culgoa floodplain is on the border between New South Wales and Queensland, so they are right down the bottom of that Condamine-Balonne catchment. It is a massive area. The Murray-Darling Basin Authority has said in the past that the reason they need to get all that water around St George is that there are assets that they want to water near St George. There is no connectivity between what happens up at Chinchilla—which would be a good 300-odd kilometres away at least—and what happens down at the border.

In saying that, when the plan was signed, I remember very vividly the argument that all this water had come from down there apparently, and the chair of the Murray-Darling Basin Authority—
Authority, Mr Craig Knowles, promised the people of St George that not all of the water needs to come from St George. The vast majority of it does—he said about 80 per cent does—but there is the potential to get 20 per cent from upstream. While that water may not get down to the border easily, it is still needed to help the macro and microinvertebrates that exist in the upper Condamine-Balonne system. That has not happened so far. There has been no water acquired from the upper Condamine-Balonne system. In my view, in accordance with those promises and assurances given to the people of St George, that should happen now, in the last few years of the plan.

The final thing we can do, which will be explored in the 2016 review of the plan, is better environmental watering; to water the Narran Lakes and the Culgoa floodplain. We can become more efficient at doing that as well. These areas are large floodplains, and, yes, we could water the environmental assets by sending the water down the river, but that would be a lot of waste, because a lot of that water then spreads over those floodplains and evaporates or seeps into the ground. Instead, we could, in a more targeted way, direct that water or buy water at certain times to make sure that we do not need as much as 100 gigalitres to get the same environmental impacts.

If we do all of those three things—concentrating on more water efficiencies, getting some water from the upper Condamine and also improving environmental watering—I think we can minimise any further impact on St George. I want to see that town survive. It is a great little town. It has six or seven doctors who live there, and it is a beautiful place for fishing. There is waterskiing, but I did not get a chance to do that. There is a beautiful river. I hope that we can help these communities survive and thrive in inland Australia, and the only way they are going to do that is by continuing to do what they are best at, which is growing food and fibre. There are not going to be thousands of jobs in ecotourism. They are not going to be able to diversify into local government or other issues. The only thing that is going to sustain that town is using the soil, sun and water that God has given us to grow food and create jobs.

Senate adjourned at 22:26

DOCUMENTS

Tabling

The following documents were tabled by the Clerk pursuant to statute:

[Legislatve instruments are identified by a Federal Register of Legislative Instruments (FRLI) number. An explanatory statement is tabled with an instrument unless otherwise indicated by an asterisk.]


Australian Meat and Live-stock Industry Act 1997—


Australian Research Council Act 2001—Funding Rules for schemes under the Discovery Program for the years 2015 and 2016 [F2014L01525].

Civil Aviation Act 1988—
Civil Aviation Regulations 1988—Directions—determining maximum weight (CGG Aviation)—CASA 267/14 [F2014L01522].

Civil Aviation Safety Regulations 1998—
Exemption from subregulation 139.190(1) of CASR 1998—requirement to provide a VASIS—CASA EX150/14 [F2014L01552].

Exemption—refuelling in Ordinance Loading Areas (Pel-Air Aviation)—CASA EX149/14 [F2014L01547].

Repeal of Airworthiness Directives—CASA ADCX 019/14 [F2014L01539].

Commissioner of Taxation—Public Rulings—
Class Ruling CR 2014/91.

Product Ruling PR 2014/18.

Taxation Ruling TR 2014/6.


Environment Protection and Biodiversity Conservation Act 1999—


Amendment of List of Exempt Native Specimens—South Australian Sardine Fishery (11 November 2014)—EPBC303DC/SFS/2014/47 [F2014L01534].

Federal Financial Relations Act 2009—
Federal Financial Relations (General purpose financial assistance) Determination No. 63 (June 2014) [F2014L01545].

Federal Financial Relations (General purpose financial assistance) Determination No. 64 (July 2014) [F2014L01546].

Federal Financial Relations (General purpose financial assistance) Determination No. 65 (August 2014) [F2014L01549].

Federal Financial Relations (General purpose financial assistance) Determination No. 66 (September 2014) [F2014L01555].

Federal Financial Relations (General purpose financial assistance) Determination No. 67 (October 2014) [F2014L01556].

Federal Financial Relations (National Partnership payments) Determination No. 79 (June 2014) [F2014L01536].

Federal Financial Relations (National Partnership Payments) Determination No. 80 (June 2014) [F2014L01537].

Federal Financial Relations (National Partnership payments) Determination No. 81 (June 2014) [F2014L01542].
Federal Financial Relations (National Partnership payments) Determination No. 82 (July 2014) [F2014L01544].
Federal Financial Relations (National Partnership payments) Determination No. 84 (September 2014) [F2014L01548].

Fisheries Management Act 1991—

Heard Island and McDonald Islands Fishery Management Plan 2002—Heard Island and McDonald Islands Fishery Total Allowable Catch Determination 2014 [F2014L01540].


Migration Act 1958—Migration Regulations 1994—

Class of Persons—
IMMI 14/100 [F2014L01558].
IMMI 14/104 [F2014L01524].

Classes of Persons—IMMI 14/105 [F2014L01528].

Evidence of Functional English Language Proficiency—IMMI 14/055 [F2014L01551].
Language Tests, Score and Passports—IMMI 14/076 [F2014L01538].

National Health Act 1953—


National Health (Remote Aboriginal Health Services Program) Special Arrangements Amendment Instrument 2014 (No. 2)—PB 99 of 2014 [F2014L01560].


Public Governance, Performance and Accountability Act 2013—

PGPA Act (Indian Ocean Territories Special Account 2014—Establishment) Determination 02 [F2014L01532].
PGPA Act (Jervis Bay Territory Special Account 2014—Establishment) Determination 03 [F2014L01533].

PGPA Act (Property Special Account 2014—Establishment) Determination 04 [F2014L01567].

Radiocommunications Act 1992—Radiocommunications (Duration of Community Television Transmitter Licences) Determination (No. 1) of 2008 (Amendment No. 1 of 2014) [F2014L01523].


Tabling

The following government documents were tabled:

[Documents presented since the last sitting of the Senate, pursuant to standing order 166, were authorised for publication on the dates indicated.]


Australia's Food Processing Sector—Select Committee—Report—Inquiry into Australia's food processing sector—Government response, dated November 2014. [Received 20 November 2014]

The document read as follows—

Australian Government response to the Senate Select Committee on Australia's Food Processing Sector report:

Inquiry into Australia's food processing sector November 2014

The Australian Government thanks the former Senate Select Committee on Australia's Food Processing Sector and its then Chair, Senator the Hon Richard Colbeck, for the inquiry into the competitiveness and future viability of Australia's food processing sector. Although the inquiry was conducted during the previous Parliament, challenging economic circumstances still remain in domestic food processing. Since being sworn in, the new Australian Government has initiated a number of policy and programme measures to establish the right environment for food processing businesses to prosper.

The Australian Government sees food processing as a critically important part of the Australian economy. Figures from the Australian Bureau of Statistics and the Australian Bureau of Agricultural and Resource Economics and Sciences show that the food processing sector:

- accounts for 24 per cent of total manufacturing employment;
- is the largest contributor to total Australian manufacturing value added;
- processes 38 per cent of Australia's agriculture, forestry and fishing output; and
- is worth approximately $19 billion in export revenue each year.

The Australian Government also acknowledges the many pressures faced by food processing businesses as well as the unprecedented growth opportunities arising from Asia's rapid economic development. We consider that Australian food processing businesses can build their international competitiveness with economic settings that keep domestic manufacturing costs down; promote a level playing field; provide essential infrastructure; reduce regulatory burdens; and eliminate barriers to export markets.

The Australian Government notes:

- all thirty-five recommendations in the Senate Select Committee's Majority Report;
- all three recommendations in the Government Senators' Dissenting Report; and
- all of the ten recommendations in Senator Nick Xenophon's Minority Report.

Over the course of the 44th Australian Parliament, the Australian Government will be carefully developing policy on many of the detailed issues covered in the Senate Select Committee report and will continue to consider all insights brought to attention by the Committee.
The Australian Government has commenced implementing a number of election commitments to boost business competitiveness as well as assist the food processing industry, with many initiatives featuring in the 2014–15 Budget. Of particular benefit to Australia's food processing sector, the Australian Government has work underway or due to commence shortly:

- to repeal the carbon tax to reduce cost pressures on domestic manufacturing;
- to cut red and green tape by $1 billion a year annually, including the establishment of a regulation repeal agenda, to enhance national productivity;
- to progress COAG deregulation agenda projects in consultation with Victoria and South Australia in areas of beef and dairy processing;
- to invest an additional $100 million in Rural Research and Development Corporations;
- to provide $15 million over four years in rebates to small exporters for Export Certification registration costs;
- to restore funding to the Export Market Development Grants Scheme, starting with an initial boost of $50 million (over four years), to encourage firms, including manufacturers, to establish and grow export markets;
- to achieve, as soon as possible, the entry into force of free trade agreements with Japan and the Republic of Korea following the recent conclusion of negotiations;
- to conclude a free trade agreement with the People's Republic of China;
- to conclude the Trans-Pacific Partnership as a stepping stone towards a longer term goal of an Asia-Pacific free trade area;
- to develop an Agricultural Competitiveness White Paper to set out a strategic approach to promoting investment and jobs growth in the agriculture sector;
- to establish an industry-led Food and Agribusiness Industry Growth Centre — announced as part of the Industry Innovation and Competitiveness Agenda — to address sector-wide impediments to productivity and competitiveness in the food and agribusiness sectors and drive innovation links between business and researchers.
- to review Australia's competition laws and policy to identify ways to deliver more competitive markets, drive productivity and support the growth and prosperity of efficient businesses, both big and small;
- through the Legislative and Governance Forum on Consumer Affairs, to extend the unfair contract term protections currently available to consumers to small business;
- to create a Small Business and Family Enterprise Ombudsman with real power;
- to review coastal trading with the aim of identifying ways to reduce the regulatory burden in the shipping industry;
- to introduce the $50 million Manufacturing Transition Grants Programme to assist businesses transition to new and expanding high value-added manufacturing sectors;
- to establish the $155 million Growth Fund to encourage the growth of new industries and economic diversification in Victoria and South Australia following the closure of local automotive manufacturers;
- to establish the $484.2 million new Entrepreneurs' Infrastructure Programme to support businesses to improve their competitiveness and commercialise new ideas; and
- to establish the new $476 million Industry Skills Fund to assist small and medium sized businesses to successfully diversify and improve competitiveness in a global market.
Majority Report
Recommendation 1
The committee recommends that all state and territory governments develop a definitive timeframe for the Council of Australian Governments reform agenda for a National Seamless Economy and actively engage to ensure that momentum for implementation of the reforms is maintained. In particular, the committee urges participants to ensure movement on the integrated transport reforms, including reforms to the heavy vehicle registration process.

The Australian Government notes the recommendation.

Recommendation 2
The committee recommends that the government expedite those recommendations of the Deegan Report which have not been rejected to position Tasmania to have access to a globally competitive freight system.

The Australian Government notes the recommendation.

Recommendation 3
The committee recommends that following the introduction of the carbon price on 1 July 2012, the government monitor:

- how the big emitters pass on the costs into the food supply chain; and
- the profitability of businesses in that supply chain, including to farm gate.

The Australian Government notes the recommendation.

Recommendation 4
The committee recommends that the government initiate an independent review of the competition provisions of the *Competition and Consumer Act 2010*. The committee recommends that the review should include consideration of:

- the misuse of market power;
- creeping acquisitions;
- predatory pricing; and
- unconscionable conduct.

The Australian Government notes the recommendation.

On 27 March 2014, the Minister for Small Business announced the final terms of reference for the Government’s ‘root and branch’ competition review of competition policy. This is an independent review led by Professor Ian Harper assisted by an expert panel. The Harper Review has a broad remit. It is examining the competition framework, which is a vital part of a strong economy that drives continued growth in productivity and living standards. The review has scope to consider whether key markets, such as grocery markets, are competitive and whether changes to the law are necessary to enhance outcomes in those markets.

Recommendation 5
The committee recommends that the review of the CCA consider the inclusion of the functions of a food supply chain ombudsman within the ongoing role of the ACCC.

The Australian Government notes the recommendation.

Recommendation 6
The committee recommends that the major supermarkets in Australia voluntarily compile and establish benchmarks within their corporate social responsibility documents to measure the level of satisfaction of their suppliers in dealing with the supermarkets. External agencies should be engaged to conduct
regular supplier satisfaction surveys, the results of which should be publicised by the supermarkets in their regular reporting cycles.

The Australian Government notes the recommendation.

**Recommendation 7**

The committee recommends that the government expand the application of food labelling requirements to require all primary food products for retail sale to display their country of origin, in accordance with recommendation 40 of the Blewett Review.

The Australian Government notes the recommendation.

**Recommendation 8**

The committee recommends that the government reform country of origin labelling requirements for food so that these requirements are clearer, more transparent and focus on the consumer's understanding.

The Australian Government notes the recommendation.

**Recommendation 9**

The committee recommends that, as part of the review of the *Competition and Consumer Act 2010* (Cth) recommended in Recommendation 12, government should specifically consider whether the 'safe haven' provisions in section 255 are sufficiently focussed on the consumer's understanding of country of origin claims on food products.

The Australian Government notes the recommendation.

**Recommendation 10**

The committee recommends that the government consult with industry about the use of the term 'defining ingredient' as a method of determining the country of origin of a product.

The Australian Government notes the recommendation.

**Recommendation 11**

The committee recommends that industry and government investigate the potential use of smart phone and barcode technology to provide additional information about the country of origin of food products.

The Australian Government notes the recommendation.

**Recommendation 12**

The committee recommends that the government move mandatory country of origin labelling requirements for food to a specific consumer product information standard under the *Competition and Consumer Act 2010*, consistent with recommendation 41 of the Blewett Review.

The Australian Government notes the recommendation.

**Recommendation 13**

The committee recommends that, when presented with direct evidence, the Australian Competition and Consumer Commission investigate claims that country of origin labels on processed foods imported into Australia under free trade agreements and other international agreements are misleading and/or deceptive.

The Australian Government notes the recommendation.

**Recommendation 14**

The committee recommends government develop a strategic focus on developing access to export markets for the food industry and facilitate an affordable cost environment for industry to access these markets.

The Australian Government notes the recommendation.
Recommendation 15
The committee recommends that the government take the lead in pursuing a more appropriate level of mutual recognition of commercial and regulatory standards and audit outcomes, possibly through the use of the Global Food Safety Initiative standards benchmarking process.
The Australian Government notes the recommendation.

Recommendation 16
The committee recommends that industry and DAFF Biosecurity consider establishing a forum in which they can meet to discuss and resolve factors that inhibit export market access, growth and development.
The Australian Government notes the recommendation.

Recommendation 17
The committee recommends that the Senate Rural and Regional Affairs and Transport References Committee examine the new biosecurity legislation to assess whether it will appropriately address the problems of different standards applying to imported and domestic products and consider monitoring the implementation of relevant measures.
The Australian Government notes the recommendation.

Recommendation 18
Tertiary and higher education providers should engage more directly with food processing businesses about curricula and outcomes to ensure that the skills developed through further education better match those required by industry.
The Australian Government notes the recommendation.

Recommendation 19
The committee recommends that the government consider, in consultation with state and territory governments and industry, expanding existing programs promoting the study of, and career paths in, science to include food science and technology.
The Australian Government notes the recommendation.

Recommendation 20
The National Food Plan should explicitly deal with the labour supply issues facing Australia’s food processing sector.
The Australian Government notes the recommendation.

Recommendation 21
The committee recommends that the government encourage and assist the agricultural and food processing industry in setting up a peak council of industry bodies so that the industry may, amongst other things, more effectively engage with primary, secondary, tertiary and higher education providers about potential career paths in the agrifood sector.
The Australian Government notes the recommendation.

Recommendation 22
The committee recommends that the government continue to promote and investigate partnerships and programs that connect recently arrived migrants and international workers to jobs in the food processing sector, particularly to jobs in rural and regional centres.
The Australian Government notes the recommendation.
Recommendation 23
The committee recommends that the government investigate the possibility of extending the class of employers able to access the Seasonal Worker Program to include employers in the food processing sector.

The Australian Government notes the recommendation.

Recommendation 24
The committee recommends that the government investigate whether the skills recognition frameworks used for skilled migration programs, such as the Australia and New Zealand Standard Classification of Occupations code system, are appropriately recognising food processing skills and qualifications.

The Australian Government notes the recommendation.

Recommendation 25
The committee recommends that the government require the officers responsible for assessing 457 Visa applications for the food processing sector to have specific knowledge of the sector, its requirements, and the markets within which it operates.

The Australian Government notes the recommendation.

Recommendation 26
The committee recommends that the government review the flexibility provisions under both the Fair Work Act 2009 and modern awards, with a view to increasing the ability of employers and employees to negotiate flexible working arrangements, particularly with respect to penalty rates, split shifts and minimum hours for seasonal industries.

The Australian Government notes the recommendation.

Recommendation 27
The committee recommends that the government investigate the effectiveness of research and development in the food processing sector and in doing so consider the following questions:

- has there been a market failure of research and development in the food processing sector?
- are food processors relying on research and development conducted by primary producers?
- is there scope to develop a cooperative research and development approach in the food processing sector similar to rural research and development corporations?
- do the current arrangements for research and development funding support equity of access, particularly for small and medium enterprises?

The Australian Government notes the recommendation.

Recommendation 28
The committee recommends that the government consider providing research and development assistance specific to the food processing sector.

The Australian Government notes the recommendation.

Recommendation 29
The committee recommends that the government reviews tax and regulatory settings to support innovation.

The Australian Government notes the recommendation.

Recommendation 30
The committee acknowledges the establishment of the Food Processing Industry Strategy Group and encourages its active engagement of leading food manufacturing and processing companies to encourage large scale investment in food manufacturing in Australia.
The Australian Government notes the recommendation.

**Recommendation 31**
The committee recommends that the government review the funding it has allocated for research and development in the Australian food processing sector.
The Australian Government notes the recommendation.

**Recommendation 32**
The committee recommends the government place a stronger focus on development of markets and assistance for market access in a much more cost effective way for developing business.
The Australian Government notes the recommendation.

**Recommendation 33**
The committee recommends that the government prioritise completion of trade agreements, noting those currently being negotiated particularly in the Asia–Pacific region.
The Australian Government notes the recommendation.

**Recommendation 34**
The committee recommends that the government continue to lobby for the reduction of tariff, non-tariff barriers and subsidies in export destinations through the World Trade Organisation. Pending the passing of the US Farm Bill this year, the government should consider the immediate and ongoing level and impact of these assistance packages.
The Australian Government notes the recommendation.

**Recommendation 35**
The committee recommends that a Brand Australia program be considered to assess its effectiveness in promoting the food and grocery sector. In addition, the committee recommends that a campaign be developed promoting Australian food and grocery products overseas based on their unique provenance, premium quality, assured safety and environmental sustainability.
The Australian Government notes the recommendation.

**Government Senators' Dissenting Report**

**Recommendation 1**
Government Senators reject any call for further reviews of the Fair Work Act. A comprehensive, independent review has just been completed, which found that the legislation does provide a number of avenues for flexibility.
The Australian Government notes the recommendation.

**Recommendation 2**
Government Senators encourage food processing industry employers who require greater flexibility of their workforce to utilise the existing mechanisms allowable under the Fair Work Act.
The Australian Government notes the recommendation.

**Recommendation 3**
Government Senators recommend that the Federal Government increase consultation with, and education of, the food processing sector about industry opportunities and obligations in relation to the carbon pricing mechanism.
The Australian Government notes the recommendation.
Minority Report by Nick Xenophon Independent Senator for South Australia

Recommendation 1
The Federal Government monitor the effect of the Basin Plan on food production and processing as a matter of priority, and in particular South Australia.
The Australian Government notes the recommendation.

Recommendation 2
The Federal Government take into account all areas of the food production and processing industries when forming the National Food Plan, and ensure that the Plan focussed on action-based outcomes.
The Australian Government notes the recommendation.

Recommendation 3
The Federal Government, as a matter of urgency, appoint an appropriate body to review the condition of lines for rail freight transport in Australia, with particular attention to a cost/benefit analysis of rail versus road transport and the benefits of implementing an auction-based system similar to the one currently operating in the US.
The Australian Government notes the recommendation.

The Australian Government is currently developing a White Paper on Agricultural Competitiveness and is also expected to receive an audit of Australia’s nationally significant infrastructure by Infrastructure Australia. If any further analysis is required, it would be considered in the context of the Government’s responses to those initiatives and would also be informed by State Government freight strategies.

Recommendation 4
Amend the Australian Consumer Law to deal effectively with unfair contract terms in contracts involving small businesses and farmers, with further consideration be given to including a broad statutory definition of unconscionable conduct in the Australian Consumer Law.
The Australian Government notes the recommendation.

Recommendation 5
Amend the Australian Consumer Law (ACL) to provide greater protection for suppliers who have suffered detriment after making a complaint to the ACCC and by placing the onus on the party complained of to prove that the adverse action was not in any way related to the complaint.
The Australian Government notes the recommendation.

Recommendation 6
Amend the Competition and Consumer Act 2010 to provide for a general divestiture power whereby the ACCC and other affected parties could, in appropriate cases, apply to the Courts for the breakup of monopolies or dominant companies that engage in conduct that undermines competition.
The Australian Government notes the recommendation.

Recommendation 7
Amend the Competition and Consumer Act 2010 to provide for a general divestiture power whereby the ACCC and other affected parties could, in appropriate cases, apply to the Courts for the breakup of monopolies or dominant companies that engage in conduct that undermines competition.
The Australian Government notes the recommendation.

Recommendation 8
The Federal Government establish definitions for health related terms such as ‘light’ and ‘fresh’ be established.
The Australian Government notes the recommendation.
**Recommendation 9**
There needs to be an urgent overhaul of Australia’s country of origin food labelling laws to provide truthful and useful information to consumers.
The Australian Government notes the recommendation.

**Recommendation 10**
Amend the Customs Act 1901 to reverse the onus of proof so as to require an importer to prove the imported goods have not been dumped or subsidized for export.
The Australian Government notes the recommendation.

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1 Figures for the food processing sector do not include the production of raw materials and primary produce from farming and fishing sectors.

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1. Figures for the food processing sector do not include the production of raw materials and primary produce from farming and fishing sectors.

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**Australian Human Rights Commission—Reports—**
No. 77—Basikbasik v Commonwealth of Australia (Department of Immigration and Border Protection).
No. 78—Ismail Mirza Jan v Commonwealth of Australia (Department of Immigration and Border Protection).
No. 79—CB v Commonwealth of Australia (Department of Immigration and Border Protection).

Final report, dated August 2014.
Summary report, dated August 2014.

**Commonwealth Superannuation Corporation—Report for 2013-14.**

**Crimes Act 1914—Australian Commission for Law Enforcement Integrity—Reports for 2013-14—**
Authorisations for the acquisition and use of assumed identities.
Witness identity protection certificates.

**Family Law Council—Report for 2013-14.**

**Grape and Wine Research and Development Corporation (GWRDC)—Report for 2013-14 [Final report].**

**High Court of Australia—Report for 2013-14.**


The document read as follows—

**Australian Government response to the Parliamentary Joint Committee on Law Enforcement report:**
Spectrum for public safety mobile broadband

**INTRODUCTION**
The Parliamentary Joint Committee on Law Enforcement report *Spectrum for public safety mobile broadband* was tabled in the Senate on 12 November 2013 and in the House of Representatives on 13 November 2013. The Australian Government’s responses to the committee’s five recommendations are provided below.
As first responders during times of emergency, primary responsibility for the protection of life and property rests with the states and territories. The Commonwealth's primary role in emergency management is as the national coordinator. Although the states and territories separately establish, fund and operate their emergency services, it is in Australia's interest that those emergency services are, where possible, fully interoperable. The Australian Government has a role in ensuring, where possible, emergency services initiatives—such as a public safety mobile broadband network—operate both seamlessly and consistently across all jurisdictions.

There are three ways, broadly, to establish a national public safety mobile broadband network: a fully commercial national network, dedicated state-run networks and a combination of the two. Commercial operators can provide an emergency services capability—as the tabled report finds, recent developments and evidence demonstrate the capacity of commercial providers to offer market-based solutions—but some states have expressed a preference to run their own dedicated network.

As it is unclear which of the three options will deliver the most appropriate public safety mobile broadband capability, the Australian Government will undertake a cost-benefit analysis to consider the most cost effective means of upgrading Australia's law enforcement and emergency services mobile broadband network.

The following responses to the Parliamentary Joint Committee's report are predicated on the cost-benefit analysis being undertaken and its subsequent report being completed.

RESPONSE TO RECOMMENDATIONS
The committee's recommendations are addressed in order.

Recommendation 1
5.39 The committee recommends that the Minister for Broadband, Communications and the Digital Economy issue a Ministerial Direction to the Australian Communications and Media Authority (ACMA) to allocate 20 MHz of contiguous spectrum in the 700 MHz band for the purposes of a public safety mobile broadband network.

Commonwealth Position: Not Supported
The ACMA was established as an independent regulator to make independent decisions, and is the technical expert on spectrum matters. The Minister for Communications may direct that the ACMA make suitable provision for public safety agencies, but determining technical planning, location and size of that provision is the ACMA's decision.

In October 2012, the ACMA announced it had reserved two 5 MHz blocks of spectrum in the 800 MHz band for public safety mobile broadband. The ACMA has agreed to reconsider that decision as further, relevant information becomes available.

Recommendation 2
5.40 The committee recommends that the Minister for Broadband, Communications and the Digital Economy take appropriate measures to secure, for public service agencies, priority access to an additional 10 MHz of spectrum in the 700 MHz band for public safety purposes.

Commonwealth Position: Noted
The ACMA has reserved 10 MHz of spectrum in the 800 MHz band for public safety agencies. The allocation is harmonised with Region 3 (Asia-Pacific) of the International Telecommunication Union where the 800 MHz band has been identified as suitable for public protection and disaster relief use. Harmonisation provides access to the Asia-Pacific equipment supply market.

The cost-benefit analysis will inform final decisions made on the appropriate balance between a fully commercial national public safety mobile broadband network, dedicated state-run networks and a combination of the two. That in turn will determine what, if any, additional spectrum needs to be deployed for the purpose.
Recommendation 3

5.41 If recommendation 1 is not supported by the Australian Government, the committee recommends that the Minister for Broadband, Communications and the Digital Economy issue a Ministerial Direction to the Australian Communications and Media Authority to allocate as a minimum requirement, 20 MHz in the 800 MHz band for the purposes of a public safety mobile broadband network.

**Commonwealth Position: Not Supported**

The ACMA was established as an independent regulator to make independent decisions, and is the technical expert on spectrum matters. The Minister for Communications may direct that the ACMA make suitable provision for public safety agencies, but determining technical planning, location and size of that provision is the ACMA’s decision.

In October 2012 the ACMA announced it had reserved two 5 MHz blocks of spectrum in the 800 MHz band for public safety mobile broadband. The ACMA has agreed to reconsider that decision as further, relevant, information becomes available.

Recommendation 4

6.45 The committee recommends that the Attorney-General's Department facilitate a public consultation process on a regulatory framework for overflow arrangements between public safety agencies and commercial carriers.

**Commonwealth Position: Not Supported**

The cost-benefit analysis will inform final decisions made on the appropriate balance between a fully commercial national public safety mobile broadband network, dedicated state-run networks, and a combination—including overflow arrangements—of the two.

Recommendation 5

7.10 The committee recommends that the Australian Government direct an appropriate portion of the proceeds derived from the auction of spectrum to fund the allocation of 20 MHz of spectrum in the 700 MHz band for the purposes of a national public safety mobile broadband network.

**Commonwealth Position: Not Supported**

Spectrum revenues are returned into the Consolidated Revenue Fund in accordance with Section 81 of the *Commonwealth of Australia Constitution Act 1900* that requires 'All revenues or moneys raised or received by the Executive Government of the Commonwealth shall form one Consolidated Revenue Fund'. Accordingly, it is appropriate that the revenue from the sale of spectrum be returned to consolidated revenue and not hypothecated to another purpose.

Wine Australia Corporation—Report for 2013-14 [Final report].

**Order for the Production of Documents**

The Assistant Minister for Social Services (Senator Fifield) tabled the following document:

Defence—Submarines tender process—Letter from the Minister for Defence (Senator Johnston) to the Clerk of the Senate (Dr Laing), dated 19 November 2014, responding to the order of the Senate of 17 November 2014.

The Assistant Minister for Social Services (Senator Fifield) tabled the following document:

Administration—Biosecurity operations—Letter to the President of the Senate from the Minister for Employment (Senator Abetz), dated 24 November 2014, responding to the order of the Senate of 17 November 2014.
The Assistant Minister for Social Services (Senator Fifield) tabled the following document: Administration—Executive international travel—Letter to the President of the Senate from the Minister for Employment (Senator Abetz), dated 24 November 2014, responding to the order of the Senate of 17 November 2014 and raising a public interest immunity claim.