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SITTING DAYS—2015

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FORTY-FOURTH PARLIAMENT
FIRST SESSION—SEVENTH PERIOD

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

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

Senate Party Leaders and Whips
Leader of the Liberal Party in the Senate—Senator Hon. Eric Abetz
Deputy Leader of the Liberal Party in the Senate—Senator Hon. George Henry Brandis QC
Leader of The Nationals in the Senate—Senator Hon. Nigel Scullion
Deputy Leader of The Nationals in the Senate—Senator Hon. Fiona Nash
Leader of the Opposition in the Senate—Senator Hon. Penny Wong
Deputy Leader of the Opposition in the Senate—Senator Hon. Stephen Conroy
Leader of the Australian Greens—Senator Richard Di Natale
Co-deputy Leaders of the Australian Greens in the Senate—Senator Scott Ludlam and Senator Larissa Joy Waters
Chief Government Whip—Senator David Christopher Bushby
Deputy Government Whips—Senators David Julian Fawcett and Anne Sowerby Ruston
The Nationals Whip—Senator 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

Printed by authority of the Senate
# Members of the Senate

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<tr>
<th>Senator</th>
<th>State or Territory</th>
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<tr>
<td>Abetz, Hon. Eric</td>
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<tr>
<td>Back, Christopher John</td>
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<td>Brandis, Hon. George Henry, QC</td>
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<td>Collins, Hon. Jacinta Mary Ann</td>
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Pursuant to section 42 of the Commonwealth Electoral Act 1918, the terms of service of the following senators representing the Australian Capital Territory and the Northern Territory expire at the close of the day immediately before the polling day for the next general election of members of the House of Representatives.

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<td>Peris, N.M.</td>
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(1) Chosen by the Parliament of New South Wales to fill a casual vacancy (vice R. Carr), pursuant to section 15 of the Constitution.
(2) Chosen by the Parliament of New South Wales to fill a casual vacancy (vice J Faulkner), pursuant to section 15 of the Constitution.
(3) Chosen by the Australian Capital Territory Legislative Assembly to fill a casual vacancy (vice K. Lundy), pursuant to section 15 of the Constitution.
(4) Chosen by the Parliament of Queensland to fill a casual vacancy (vice B. Mason), pursuant to section 15 of the Constitution.

**PARTY ABBREVIATIONS**

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

Heads of Parliamentary Departments

Clerk of the Senate—R Laing
Clerk of the House of Representatives—D Elder
Acting Secretary, Department of Parliamentary Services—D Heriot
Parliamentary Budget Officer—P Bowen
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<tr>
<td><strong>Prime Minister</strong></td>
<td>Hon. Tony Abbott MP</td>
</tr>
<tr>
<td><strong>Minister for Indigenous Affairs</strong></td>
<td>Senate the Hon. Nigel Scullion</td>
</tr>
<tr>
<td><strong>Minister Assisting the Prime Minister for the Public Service</strong></td>
<td>Senate the Hon. Eric Abetz</td>
</tr>
<tr>
<td><strong>Minister Assisting the Prime Minister on Counter-Terrorism</strong></td>
<td>Hon Michael Keenan MP</td>
</tr>
<tr>
<td><strong>Minister Assisting the Prime Minister for Women</strong></td>
<td>Senate the Hon. Michaela Cash</td>
</tr>
<tr>
<td><strong>Parliamentary Secretary to the Prime Minister</strong></td>
<td>Hon. Charles Porter MP</td>
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<tr>
<td><strong>Parliamentary Secretary to the Prime Minister</strong></td>
<td>Hon. Alan Tudge MP</td>
</tr>
<tr>
<td><strong>Minister for Infrastructure and Regional Development</strong></td>
<td>Hon. Warren Truss MP</td>
</tr>
<tr>
<td>(Deputy Prime Minister)</td>
<td></td>
</tr>
<tr>
<td>Assistant Minister for Infrastructure and Regional Development</td>
<td>Hon. Jamie Briggs MP</td>
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<tr>
<td><strong>Minister for Foreign Affairs</strong></td>
<td>Hon. Julie Bishop MP</td>
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<tr>
<td><strong>Minister for Trade and Investment</strong></td>
<td>Hon. Andrew Robb AO MP</td>
</tr>
<tr>
<td><strong>Parliamentary Secretary to the Minister for Foreign Affairs</strong></td>
<td>Hon. Steven Ciobo MP</td>
</tr>
<tr>
<td><strong>Parliamentary Secretary to the Minister for Trade and Investment</strong></td>
<td>Hon. Steven Ciobo MP</td>
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<tr>
<td><strong>Minister for Employment</strong></td>
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<tr>
<td>(Leader of the Government in the Senate)</td>
<td>Hon. Luke Hartsuyker MP</td>
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<tr>
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<tr>
<td><strong>Attorney-General</strong></td>
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<tr>
<td><strong>Minister for the Arts</strong></td>
<td>Senate the Hon. George Brandis QC</td>
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<tr>
<td>(Vice-President of the Executive Council)</td>
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<tr>
<td>(Deputy Leader of the Government in the Senate)</td>
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<td><strong>Minister for Justice</strong></td>
<td>Hon. Michael Keenan MP</td>
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<tr>
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<td>Hon. Joe Hockey MP</td>
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<tr>
<td><strong>Minister for Small Business</strong></td>
<td>Hon. Bruce Billson MP</td>
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<tr>
<td>Assistant Treasurer</td>
<td>Hon. Joshua Frydenberg MP</td>
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<tr>
<td><strong>Parliamentary Secretary to the Treasurer</strong></td>
<td>Hon. Kelly O'Dwyer</td>
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<td>Hon. Barnaby Joyce MP</td>
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<tr>
<td><strong>Parliamentary Secretary to the Minister for Agriculture</strong></td>
<td>Senate the Hon. Richard Colbeck</td>
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<td><strong>Minister for Social Services</strong></td>
<td>Hon. Scott Morrison MP</td>
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<tr>
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<td>Senate the Hon. Marise Payne</td>
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<tr>
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<td>Senate the Hon Concetta Fierravanti-Wells</td>
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<td>Hon. Ian Macfarlane MP</td>
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<tr>
<td><strong>Parliamentary Secretary to the Minister for Industry and Science</strong></td>
<td>Hon. Karen Andrews MP</td>
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<tr>
<td><strong>Minister for Defence</strong></td>
<td>Hon. Kevin Andrews MP</td>
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<tr>
<td><strong>Minister for Veterans' Affairs</strong></td>
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<tr>
<td>Minister Assisting the Prime Minister for the Centenary of ANZAC</td>
<td>Senator the Hon. Michael Ronaldson</td>
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<tr>
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<td>Hon. Stuart Robert MP</td>
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<tr>
<td>Parliamentary Secretary to the Minister for Defence</td>
<td>Hon. Darren Chester MP</td>
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<tr>
<td>Minister for Communications</td>
<td>Hon. Malcolm Turnbull MP</td>
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The PRESIDENT (Senator the Hon. Stephen Parry) took the chair at 10:00, read prayers and made an acknowledgement of country.

DOCUMENTS

Tabling

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

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

COMMITTEES

Meeting

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

By the Community Affairs Legislation Committee for a private meeting today from 1 pm, by the Community Affairs References Committee for a private meeting today from 1 pm and by the Select Committee on Health for a private meeting today from 3 pm.

The PRESIDENT (10:01): Does any senator wish to have the question put on any of those motions? There being no-one, we will proceed.

BILLS

Building and Construction Industry (Improving Productivity) Bill 2013

Second Reading

Debate resumed on the motion:

That these bills be now read a second time.

Senator McGrath (Queensland) (10:02): It is a pleasure to be able to continue my remarks in relation to the Building and Construction Industry (Improving Productivity) Bill 2013 and related bill. I believe there is a pressing need to fix the current legislation: to re-establish the ABCC so as to re-establish meaningful penalties that can actually deter people considering compliance with the law as optional and stop them from repeatedly breaking the law as it suits them; to re-establish an effective building code to ensure contractors that want to do taxpayer funded work strictly meet all of their legal obligations, including laws dealing with worker entitlements, workplace safety and migration laws; to ensure antiquated practices that only add cost and delay are avoided on taxpayer funded projects; and to remove the absurd restriction on the regulator's ability to enforce the law in the public interest where parties reach a private settlement in their own commercial interests. This is a Labor and Greens imposed restriction that does not apply to any other Commonwealth regulator.

The building and construction industry is very important for the Australian economy not only because of the number of people it employs and the number of families it supports but also because it represents approximately eight per cent of GDP, which is similar to the contribution made by the mining industry. The building and construction industry can be an
important source of sustainable, high-paying jobs. That is why it is so important to ensure the rule of law is respected by those in the construction industry, and that thuggery, intimidation and coercion are effectively dealt with. When projects are delivered on time and on budget, there is more money for more projects and that benefits the construction industry with not only more work and jobs but it also, more importantly, provides a better return for the Australian economy and the Australian consumer. The taxpayer and the consumer ultimately pay for construction delays and budget blow-outs.

The bill to establish the Australian Building and Construction Commission will re-establish a genuinely strong watchdog to maintain the rule of law and to protect workers and constructors. A re-established Australian Building and Construction Commission will improve productivity on building sites and construction projects, whether on shore or offshore. The re-establishment of the Australian Building and Construction Commission will bring to the industry confidence that the rule of law will be applied. This will encourage further investment and provide more jobs and greater prosperity for workers and the economy. The bill will prohibit unlawful industrial action, unlawful picketing and coercion and discrimination.

Labor experimented with a weaker regulator when it abolished the Australian Building and Construction Commission, strung one hand behind the regulator's back, slashed the regulator's budget by a third, reduced its staff complement by a third, and, alarmingly, reduced the applicable penalties for wrongdoing by two thirds.

A key feature of the government's legislation to re-establish the Australian Building and Construction Commission will see a return of penalties for unlawful conduct that are high enough to actually deter people who repeatedly break the law to suit their industrial agendas. For many years, it has unfortunately been only too clear that the commercial building and construction sector provides the worst examples of industrial unlawfulness. In 2003 the Cole royal commission examined the construction industry and noted that it is characterised by unlawful conduct and noted that it is characterised by unlawful conduct and concluded:

These findings demonstrate an industry which departs from the standards of commercial and industrial conduct exhibited in the rest of the Australian economy. They mark the industry as singular.

And:

… the rule of law has little or no currency in the building and construction industry in Western Australia … The … industry … is marred by unlawful and inappropriate conduct. Fear, intimidation and coercion are commonplace. Contractors, subcontractors and workers face this culture continuously.

The royal commission findings lifted the veil on what everyone in the industry had known for years. Previous governments had been unwilling or too intimidated to tackle it. The Howard government was prepared to step in and make the tough decisions required to clean up the sector. The establishment of the Australian Building and Construction Commission in 2005 provided a genuinely strong watchdog and dissolved the 1970s-style practices that plagued the industry. It was a strong, specialist regulator that enforced the rule of law applying to the building and construction sector. Even Labor reluctantly acknowledged the need for a regulator and retained the Australian Building and Construction Commission, with its coercive powers, for its first term of government. It then, regrettably, abolished the ABCC and replaced it with a weak imitation with a slashed budget.
The establishment of the Australian Building and Construction Commission saw a decrease in lawlessness. Site managers reported that for the first time in years they could focus on building rather than industrial relations. Over its term in government, Labor progressively dismantled the powers of the Australian Building and Construction Commission and abolished it in 2012. Almost immediately, as night follows day, militancy and violence was demonstrated on the streets of Melbourne with the CFMEU shutting down part of the Melbourne CBD in its aggressive protest at the Grocon Myer Emporium construction site. In that dispute workers on the site who were being blockaded purchased an advertisement in the Herald Sun with an open letter to their own union bosses asking for the blockades to stop and to be given access to their own workplace. Images of these protests were seen on television screens across the world. What message did that send to national and international companies about investing in building construction projects in Melbourne or Australia? In what was unfortunately only too characteristic of the approach in the building and construction industry, on 4 September 2012 in that same dispute which shut down part of the Melbourne CBD, senior CFMEU official Derek Christopher addressed a crowd of over 1,000 protestors on Lonsdale Street with a megaphone. With fewer than 100 police officers present, he said:

There’s 11,000 coppers in the country or in Victoria and there’s 30,000 members of the CFMEU and greater among the other unions when we call on their support, so we’re up around the 50,000 mark, so bring it on we’re ready to rumble.

The approach by this union thug epitomizes the approach taken to the application of the rule of law in the industry by the CFMEU, amongst others. The current industry regulator advises that the spread of unlawfulness in the industry was a feature of Victoria and Western Australia and has now spread to Queensland and South Australia.

The previous government was well aware of this type of behaviour in the building and construction industry, and so was understandably reluctant to abolish the Australian Building and Construction Commission despite the strong union pressure. It contracted Justice Murray Wilcox QC to review the industry to buy time. Justice Wilcox recognised the need for and the benefit provided by the Australian Building and Construction Commission, stating in his report:

… the ABCC’s work is not yet done.

and that it would be unfortunate if the ABCC’s replacement body led to a reversal of the progress that had been made. But that is exactly what we have seen.

The principal purpose of penalties in the legislation is as a deterrent. As the royal commission into trade union governance and corruption concluded in its interim report, there is a culture of wilful defiance of the law which appears to lie at the core of the CFMEU. Unions began budgeting for penalties for breaking industrial laws and treated penalties simply as a cost of doing business. The Federal Court noted that comments such as, 'The last time it cost us'—I will say 'a bucketload' of money; I do not want to swear!—'and it is going to be expensive, but our fighting fund will fix it'. This is evidence of an attitude on the part of branch officials that the risk of the imposition of significant pecuniary penalties will not be allowed to act as a constraint on unlawful activity which they consider to be warranted.

In recent findings against the CFMEU for contempt of the Supreme Court orders in Victoria—and this was for shutting down parts of the Melbourne CBD—the Supreme Court said that the imposition of a penalty for contempt of court should not be viewed as simply an
anticipated cost of industrial action. Few things could be more destructive to the authority of the court and to the rule of law then the idea that fines or similar punishments akin to a tax that, once budgeted for, enable the use of unlawful conduct to achieve industrial outcomes.

When Labor abolished the Australian Building and Construction Commission, it slashed applicable penalties by two-thirds. This only made it cheaper for the CFMEU to continue its business model of breaking the law. Even when maximum penalties were still at a meaningful level, the Federal Court said that the CFMEU had a 'deplorable record' of contraventions, that the contraventions were significant and that substantial penalties for past misconduct had not served to prevent repetition.

It was a few months ago that the Federal Court handed down yet another penalty, finding against the CFMEU, noting that the CFMEU's continued willingness to engage in contravening conduct supports the view that earlier penalties, some of them severe, had not had the deterrent effect.

The court went on to speak, in relation to the CFMEU's contravention, about the deplorable attitude on the part of the CFMEU to its legal obligations and to the statutory process which govern relations between unions and employers in this country, and that this ongoing willingness to engage in contravening conduct must weigh heavily when the need for both specific and general deterrence is brought to account.

The court also went on to say that, not for the first time, the CFMEU sought to impose its will by means of threats and coercion against employers. Its approach was one of entitlement. It was free, despite legal constraint, to deploy its considerable resources in order to achieve its industrial objectives. The concept of the rule of law was anathema to it.

This is not some historical exercise; this is a real and current problem. We must not forget that the maximum penalties are reserved for the worst offenders and repeated offences. It is extremely unlikely that individuals are penalised anywhere near the maximum for first offences.

In what was the last of the Australian Building and Construction Commission's legacy cases—meaning that it was a last case before the maximum penalty was cut by two-thirds—the CFMEU was found to have broken the law when it shut down work on a Queensland government housing project, which would have provided housing for the long-term homeless. The CFMEU proceeded to use cars to block access to the site and abused any worker who tried to enter the site.

Workers were repeatedly called 'scabs, parasites and dogs' plus a smattering of unparslimentary expletives. In fact one CFMEU official, Paul Cradden, approached one of the site workers and flooded him with aggressive attacks, saying to him, 'Hey scabby, gay boy, gay boy, scabby. The CFMEU officials also made sure to let people know who they were dealing with. The court's decision records that while people outside the main gate were yelling 'scum' and 'scab', a CFMEU official, Mr Miles, said to a group of contractors words to the effect of, 'You've all got a long time left in the industry and we can influence your future jobs.' The clear implication was: 'Do not cross the CFMEU. We will ruin you, your business and your livelihoods.'

The CFMEU think they are a law unto themselves. We cannot in this country allow this state of affairs to continue in this industry and assist the kind of behaviour that the Labor
Party or the Greens, who continue to accept substantial donations of support from the union, condone. The Federal Court certainly did not. It fined the CFMEU and a string of its officials a total of $545,000 for their offences, but, despite such a penalty, the CFMEU has not been deterred and it continues to break the law as and when suits it. The point is this: if the former Australian Building and Construction Commission’s penalties, which were larger, were only partially successful in deterring the repeated breaking of the law, what did Labor and the Greens really expect would happen when they slashed the maximum penalty for doing the wrong thing by two-thirds? We will no longer see the penalties of this magnitude because the penalty for wrongdoing was substantially cut.

Justice Logan called out the CFMEU for its outrageous disregard of the law, and reiterated the comments of other judges and Royal Commissioner Cole in condemning the union’s perverse attitude to the law. In light of this, it is absolutely disingenuous to see the CFMEU feigning outrage at the government’s efforts to restore lawfulness to the construction industry through the re-establishment of the Australian Building and Construction Commission. The CFMEU pretends that the construction industry does not require special regulation, when it is precisely because of the CFMEU’s disregard for the rule of law that special legislation is necessary.

If you need any further example, who can forget what John Setka, now the CFMEU Victorian state secretary, said to a crowd of 100 people outside the Australian Building and Construction Commission offices? Directing his comments to the public servants working at the Australian Building and Construction Commission, this CFMEU official said:

And just for the task force, or ‘Rats’, ‘Dogs’ whatever they are—

he is referring to the inspectors, the public servants, employed by the Australian Building and Construction Commission—

just to remember one thing, when this is all over and they don’t exist anymore, they’ve got to work elsewhere and we will remember them ’cause we know every—

they really do swear a lot these union officials—

one of them; We'll never forget 'em.

Hindering regulatory powers is something that the CFMEU prides itself on. The former Labor government gave into unions demands and abolished the Australian Building and Construction Commission, replacing it with a severely curtailed version of the regulator in the Fair Work building industry inspectorate. As well as this inspectorate having its power substantially curtailed, it faced significant reductions in funding and cuts to staffing of around 30 per cent. In closing, I totally support this bill and the reintroduction of the Australian Building and Construction Commission. It is certainly needed so that we can cut down on the misbehaviour and the bad behaviour of the CFMEU.

Senator SINGH (Tasmania) (10:18): I rise to speak on the Building and Construction Industry (Improving Productivity) Bill 2013 in the hope that it does not pass this Senate and also to make it clear why Labor opposes this legislation, which of course forces a return to the draconian Australian Building and Construction Commission. This bill is seeking to re-establish the Australian Building and Construction Commission, which was created in 2005 theoretically to investigate breaches of federal industrial law in the building and construction
industry. In reality, it was then something far more pernicious and its re-establishment threatens no less than that.

The ABCC's proposed powers are extreme, to say the least, and undermine this country's very civil liberties. But before I continue, I must bring to the Senate's attention the consistent ideological attack of the Abbott government upon the working people of Australia, which really goes to the foundation of this bill. The attack by the conservative Abbott government on working people, who organise together to protect their rights, is explicit both in this bill and in the establishment of the biased, prejudicial and political witch-hunt this government calls a royal commission.

I will not reflect upon the character of anyone involved in the royal commission, although whether the commissioner can continue in his role due to the clear present bias and the political nature of his appointment is an issue worth debating. Instead, I want to draw to the Senate's attention the foundational common law case Crown and Sussex Justices, ex parte McCarthy from 1924 in which it was found:

... that justice should not only be done, but should manifestly and undoubtedly be seen to be done.

And that:
Nothing is to be done which creates even a suspicion that there has been an improper interference with the course of justice.

The simple facts of this case are that Justice Dyson Heydon, whilst royal commissioner of an $80 million quasi-judicial inquiry into unions and Labor prime ministers, accepted an invitation to speak at a Liberal Party fundraiser. He has created at least the appearance of bias and, even to the most unreasonable person on the street, he has raised a suspicion that his professional judgement might be unduly influenced.

The Prime Minister has described Justice Heydon as the most distinguished person in the legal profession. If that is so, I then have no doubt that a man of Justice Heydon's distinguished legal experience and expertise knows that he has no other option but to recuse himself from the commission. I think that the commissioner really needs to consider whether his ongoing role in the royal commission is tenable.

Justice, however, will not be accorded to workers who are brought before the reconstituted ABCC when it uses its reconstituted powers under this bill to compel workers to suffer secret interviews without legal representation and under the threat of imprisonment if they resists coercion. These powers are excessive, undemocratic and unwarranted. It sounds like something directly out of the Stasi handbook of the 1950s. This bill extends the reach of the ABCC into picketing, offshore construction and the transport and supply of goods on building sites. The new powers are aimed squarely at stopping pickets and include a reverse onus that will require individuals to prove they were not motivated by industrial objectives to escape the mere $34,000 penalty that will be put upon them if they were.

The case for the reintroduction of the ABCC has not been made. We know that Labor's Fair Work Building and Construction agency already has sufficient powers to deal with any unlawful behaviour in the industry. The ABCC is based on flawed modelling and its proposed powers, as I said, are extreme and unnecessary and compromise our civil liberties.

Further, I find that this particular legislation is demonising and discriminating against workers in the construction industry—against a particular group of workers. It is subjecting
them to harsher laws than any other workers in this country. No other workers are being subjected to this level of demonising and discriminatory law changes. The Abbott government's determination to take Australia back to the ABCC shows a return to something very similar, in my belief, to Work Choices, which, as we know, lurks just below the surface of this government.

As I said, the Fair Work Building and Construction agency established by Labor already has sufficient powers to deal with any unlawful behaviour in the industry. It has a full suite of appropriate investigation and prosecution powers to deal with any unlawful behaviour, whether by employers, employees, unions or contractors. Fair Work Building and Construction is undertaking more investigations, concluding more investigations, getting more matters to court faster and recovering more money for workers in the industry. Indeed, Fair Work Building and Construction has already recovered more than $2 million in unpaid wages and entitlements for more than 1,500 workers. Those were the sorts of breaches that the ABCC never focused upon. It was quite happy for workers to miss out on their fair share of wages and conditions. Those are the sorts of breaches which need to be readily investigated for a fair and transparent industry.

ABS data shows industrial disputation in the building and construction industry is, on average, less than one fifth the rate seen under the previous coalition government. Labour productivity has increased over the last 10 quarters and is almost three times higher, on average, under Fair Work than under Work Choices. Under Fair Work, the rates of industrial disputes are around one-third the rate we saw under the previous coalition government, yet the conservative Abbott government does not want to listen to any of that good news for workers and for employers. The government is not interested in giving workers a fair go. The government is only interested in systematically pursuing Australian workers through draconian laws like this.

Labor's dissenting report to this bill made very clear that there are very serious concerns of the human rights impact of this legislation. In fact, Labor believes that this bill represents a direct attack on the common law rights and privileges which form the cornerstone of our democratic and legal systems. This legislation seeks to demonise an industry, treat its workers as criminals and remove their rights in law. Not only will Labor oppose this bill but we will fight the Abbott government's ideological war on working Australians every single step of the way, including in the building and construction industry. We will continue to fight so that all working Australians will receive the fair living wage they deserve for the hard work they do in all industries and we will also ensure that the rights of all Australians are given equal respect under the law. It is for these reasons that Labor opposes this draconian legislation which tries to return the ABCC into law. It is my hope that it does not pass the Senate. It is my hope, very much, that those in the Senate, particularly those on the crossbenches, see sense to the threat of this law to our civil liberties, to the human rights of workers and to the demonising of a particular set of workers in this country and uphold the Australian ethos of the fair go for all.

Senator DAY (South Australia) (10:27): I rise today to talk about the Building and Construction Industry (Improving Productivity) Bill 2013 and related bill. It is a subject that I know a little bit about because I have worked in the building and construction industry for nearly 40 years. However, a definite split has developed over the years between the...
commercial construction industry on the one hand and the housing construction industry on
the other. The glaring difference between these two construction environments is that you do
not get the kind of criminal conduct on housing construction sites that you do on commercial
construction sites. So what is the difference? Why do we not have the criminal behaviour, or
anything like it, at home-building sites in the housing industry? The answer is: we do not see
the CFMEU and its members on housing construction sites. We are having this debate about
reinstating the Australian Building and Construction Commission. It is because the ABCC is
the only body capable of keeping the CFMEU in check on commercial building sites.

Those who have been listening carefully to my questions to various ministers in this place
will know that I have been advocating for unemployed people to be able to work on terms and
conditions which suit them. The unemployed are presently trapped in a workplace regulation
prison. They cannot escape because there are so many patronising organisations that say, 'We
have to lock you up in this workplace regulation prison for your own good, because you
might be exploited if we let you out.' Yet, as I have mentioned in examples before, nobody
stops young people from travelling to some of the most dangerous places on earth where they
could be taken hostage or harmed. Yes, the department of foreign affairs issues travel
warnings about some countries, but it ultimately respects the rights of people to go wherever
they like in the world and take whatever risks they like. There is no travel prison regulating
where people can travel. For some reason, we respect an Australian citizen's inalienable right
to travel and expose themselves to potentially life-threatening risk, but if they want to go and
work somewhere then they are captive to over 2,000 pages of workplace regulations. In some
circumstances, these regulations have made it illegal for workers to negotiate terms and
conditions which suit them. We hear the term 'paternalism' used in this place and throughout
history, but the epitome of paternalism is the workplace regulation prison.

I challenge one person arguing in favour of workplace regulation to say that they have
never taken the cheapest quote to have a job done. Whether it is something you need fixed at
home, the servicing of your car or which hairdresser you go to, it is human nature to shop
around or to change service providers because you have found a better deal. This is not
considered criminal behaviour when you choose the cheapest quote, yet somehow when it
comes to labour in other contexts there are regulations to say that the minimum price, for
example, for working on a weekend is $40 an hour. But please spare a thought for the
thousands of unemployed who are struggling on $5 an hour. These people are ready, willing
and able to work for $20 an hour but it is against the law. The law says, 'No, cafe owners and
others must pay $40 an hour'. But the cafe owners and others cannot afford $40 an hour, so
they do not open their doors. Everyone loses: the unemployed person stays on the dole, the
cafe owner cannot open and the customers cannot buy what they want. It is immoral to deny
people the right to work and support their families. The contrary view on workplace
regulation is this view that you simply must lock up the unemployed in this prison to protect
themselves from exploitation. It is the very reason that these powerful organisations are a law
unto themselves—but I digress.

Returning to the dire state of the commercial construction industry, what we are seeing
here is leadership failure at every level. At the last count there were something like 80
different definitions of leadership. My favourite definition of leadership is: that which you
will not tolerate. What is it that you will not tolerate? That determines what kind of a leader
you are. What we are seeing in the commercial construction industry is a total failure of leadership. Let us look at some of them. The previous Labor government deliberately removed any notion that it was necessary to constrain criminal behaviour by certain unions. They were prepared to tolerate criminal behaviour—a failure. The police have failed to uphold the law in favour of so-called keeping the peace. They will tolerate criminal behaviour if it means keeping the peace—another failure of leadership. The courts have failed to uphold justice. In some cases those who have suffered unlawful behaviour wait years and years for justice. As we know, justice delayed is justice denied, and now we see in this bill the government's desire to increase penalties out of frustration at the relatively low penalties and, therefore, the low economic incentive to promote lawful behaviour. The judicial system: another failure of leadership.

When you have these growing power bases developing on construction sites, you get ridiculous situations such as those this bill seeks to rectify, including: contractors being forced to employ a non-working shop steward; situations where, if one worker is offered overtime, all workers have to be offered overtime, even if there is not enough work; and trade contractors being required to provide certain conditions to their workers even if they already have lawful arrangements with them. This bill would hope to address these and other allegations of standover tactics, intimidation and violence.

The Independent Contractors Association of Australia asserts in its submission to the Victorian CCCU inquiry that independent contractors working on the Westgate Bridge upgrade in 2009-10 were taunted regularly with 'It's a long way to fall, mate' because they were not members of the CFMEU. This is outrageous. Never in 40 years of working on housing construction sites have I heard someone saying to a fellow construction worker, 'It's a long way to fall, mate.' The ICA has posted footage of the violence and foul verbal abuse that workers were subjected to entering a worksite. The ICA went on to assert that, when the ABCC was in operation before 2010, the ABCC 'in large measure curtailed a good deal of the abuse and harassment in the Victorian construction industry, although'—sadly—'it did not eliminate it'.

The Greens talk at times about a 'social licence to operate'. In my opinion, the CFMEU does not even have a social licence to exist, let alone operate. Senator Lambie has called for the CFMEU to be deregulated. In his book *Blink*, Malcolm Gladwell talked about 'thin slicing'. *Blink* is the book and I recommend it. Weighing up situations in the blink of an eye. Looking for the shibboleths, the dead giveaways. For those who are not familiar with the Old Testament, 'shibboleth' is Hebrew for stream. Jephthah and Gilead fought Ephraimites and captured the Jordan crossing. To distinguish who was friend or foe, they had everyone say the word 'shibboleth'. If they could not pronounce it correctly, they knew they were the enemy. Hence 'shibboleth' became an identifier or a dead giveaway. It would be like hearing someone say, 'Where did I put my jandals?' Straightaway you would know they are a New Zealander. It is a shibboleth. Gladwell calls it 'thin slicing'. He says you can take a big salami and, no matter how thinly you slice that salami, everything you want to know about the whole salami is in that thin slice.

I note the CFMEU gave over $100,000 to the Greens before the last election. How morally bankrupt can you get when you oppose this legislation and you have received money from the CFMEU. The Greens, the party that pretends to be a party of ethics and morality, gladly takes
money from the CFMEU. There's your 'blink' moment, your 'thin slice' of the Greens. The Greens shibboleth. Everything you want to know about them is right there.

By contrast, look at the Shop, Distributive and Allied Employees Association. I have never once heard allegations that they have engaged in criminal behaviour or provided funding to the Greens. The Shoppies have more in common with Family First than the Greens. The Independent Contractors Association says in the submission I mentioned earlier that the previous federal construction code changed the dynamic of reducing the violence, harassment and intimidation on construction sites. It did so because:

… any construction business that was involved in or permitted anti-competitive industrial relations activity (including violence and intimidation) found itself excluded from government work. This changed the commercial ‘reward’ system because the financial benefits from violence and intimidation were largely removed. Unfortunately this was undone with the closing down of the ABCC.

This bill creates the capacity for a new building code. I have heard about the huge cost blowouts, enabled by the existing code. In my home state of South Australia the state Labor government is building a brand-new hospital, recently built a health and medical research institute, made a major expansion of the grandstands at Adelaide Oval and is, with the help of the Commonwealth, about to commence major and long-overdue roadworks. We have had to fight hard to get Commonwealth funding to support those projects and yet where will a significant percentage of that federal taxpayer money go? It will go into supporting the inefficiencies provided by the current building code.

Look at the stadium construction project my Western Australian colleagues have happening in their capital and at the new footbridge they think will be better than Adelaide's new footbridge. Indeed, just on Thursday The Financial Review reported that 76 workers at the new children's hospital project in Perth were found, by the Federal Court, to have engaged in unlawful industrial action—on a children's hospital project! I see Senator Smith nodding. This happened in his home state. If taxpayers in the states that we senators here represent want value for state and federal taxpayer money we ought to demand that building codes support efficient civil construction projects—and that is not to mention private projects like the Olympic Dam expansion and other mining opportunities. When you have major inefficiencies, such as major work stoppages on questionable grounds, it is proper for the government to look at how we can ensure that those trying to create jobs and improve our economic situation can get on with the job to deliver projects on time and on budget. Let me quote from a report by Deloitte Access Economics, of last year, submitted to the Productivity Commission:

It is also worth highlighting that the rate of engineering construction cost increase has been notably higher for public sector projects … than private sector projects. Given the significant demand seen for resources investment, and the combination of a rising $A and high import component for resources projects … costs of imported materials … one might have thought this would be the other way around. A loss of competitiveness in delivering infrastructure projects creates difficulties for the Australian economy …

I have heard allegations being made in this place about behaviour on construction sites and towards Fair Work Building and Construction officials which make one's hair curl. They are appalling allegations. I was willing to support the continuation of the powers needed by Fair Work Building and Construction during a previous session of the parliament when they were
about to expire, because I believed there were legitimate concerns that needed investigation. For those same reasons and the factors I have outlined, whilst I am not generally in favour of expanding government power, the situation in the commercial construction industry has become so bad that we need to restore the ABCC. I support the bill.

Senator SMITH (Western Australia) (10:43): Thank you very much for another very well informed and considered contribution to these matters, Senator Day. Those senators on the other side of the chamber would be well served if they paid more attention to contributions like Senator Day's. I commend him for that very powerful presentation.

It is also my pleasure to make a contribution this morning in support of the Building and Construction Industry (Improving Productivity) Bill 2013 and related bill, which should be fairly uncontroversial in the sense that all the bill is doing is making sure workers in the construction sector go about their jobs each day without the fear of being harassed, intimidated or otherwise put upon by thugs within the Construction, Forestry, Mining and Energy Union.

But before I proceed I just want to comment briefly on a contribution I heard from Senator Singh. If I heard her correctly she seems to take exception to the reverse onus of proof which is contained in this bill. I would just like to point out to Senator Singh and to other Labor and Greens senators who might make a contribution to this that such a provision is taken, pretty much cut and pasted I dare say, from the Fair Work Act that was passed by the former Labor government—cut and pasted from the Fair Work Act passed by the former Labor government! So, I think it is beholden on each and every speaker following on from me on the Labor side and on the Greens side to first and foremost answer these questions. What is their position? Is it consistent with the previous position? Has it changed from the previous position? And why might that be the case? So, that is a challenge for subsequent speakers.

Of course, the Labor Party cannot survive without the rivers of cash that flow to it from the union movement in this country. This point was demonstrated ably by Senator Day. And so it is that in the course of the debate on this legislation both here and in the other place, we have had the sorry sight of Labor members and senators getting to their feet and making excuses for bullying, intimidation and violent behaviour on construction and worksites across our country—indeed, even in my own state. I will come to that briefly.

It is really quite sad to see the once-great Labor Party reduced to such a state, but there we have it. I will come to some specific examples of the sort of conduct that Labor seeks to excuse in a brief moment. This legislation, however, goes to the heart of dealing with something that the Intergenerational report released earlier this year makes clear we must deal with, and that is improving productivity. We have heard, and we will no doubt continue to hear, histrionics from Labor senators about the provisions in this legislation. But desperately as they might wish otherwise, this is not a part of some grand conspiracy. This legislation is doing no more than what the coalition said we would do in the lead-up to the 2013 federal election.

This bill will finally re-establish the Australian Building and Construction Commission, a genuinely strong and independent watchdog that will maintain the rule of law to protect workers and constructers and to improve productivity on building sites and construction projects whether onshore or offshore. This legislation will at long last reverse some of Labor's
changes to the workplace relations laws which underpinned the Australian Building and Construction Commission before it was abolished by the Gillard government in 2012.

The bill prohibits unlawful industrial action, unlawful picketing and coercion and discrimination. It will put in place penalties that are high enough to provide an effective deterrent to breaches of these provisions. A number of effective remedies, including injunctions, will also be available to the ABCC and to persons affected by unlawful behaviour.

In passing this legislation the coalition government will finally be able to return some of the certainty and stability to the construction sector which went missing when Labor abolished the ABCC three years ago. Once again, we can banish some of the worst aspects of thuggery and lawlessness from construction sites across the nation and, most particularly, sites in Victoria and in my own state of Western Australia, where the corrosive culture within elements of the union movement have acted as a handbrake on economic activity for far too long.

Just to remind ourselves of the history of this issue: it was well known to insiders and to outsiders alike over many years that Australia's construction sector was home to the nation's most terrible examples of industrial thuggery and lawlessness. That was why in 2001 the Howard government's then workplace relations minister and now Prime Minister, Tony Abbott, established the Cole royal commission. It found that the standards of commercial industrial conduct exhibited in the building and construction industry varied significantly from those in the rest of the Australian economy—and not in a positive way.

Witness after witness testified to criminal conduct and unlawful and inappropriate conduct, including breaches of the relevant workplace relations and work health and safety legislation, and a blatant disregard for the law. When it came to my own state of Western Australia, the Cole royal commission found that:

... the rule of law has little or no currency in the building and construction industry in Western Australia.

'The rule of law has little or no currency.' Again, I quote:

The building and construction industry in Western Australia is marred by unlawful and inappropriate conduct. Fear, intimidation and coercion are commonplace.

Thus, in line with the recommendations that flowed from the Cole royal commission, the then Howard government moved in 2005 to set up the Australian Building and Construction Commission, a strong watchdog that would tackle lawlessness front-on. It was a strong, specialist regulator that enforced the rule of law applying to the building and construction sector.

Naturally then, as now, the move was opposed by the Australian Labor Party, which, at the end of the day, cares more about receiving its donations from the CFMEU than it does about the rule of law on Australia's construction sites. And over the three years between 2005 and 2012 when the Gillard government abolished the ABCC, what was the contribution of this body, which was detested, maligncd and finally abolished by the Labor Party? According to independent research undertaken by Independent Economics in 2013, building and construction industry productivity grew by more than nine per cent, consumers were better off by around $7.5 billion annually and fewer working days were lost through industrial action.
A rational and responsible political party would look at those things and think they were positives. They would speak from the evidence. Alas, though, we are talking about the Australian Labor Party, aided and supported by the Australian Greens, led at the time by Julia Gillard and staunchly supported by her at the time loyal minister for industrial relations, Mr Bill Shorten. Instead of exhibiting a bit of leadership, standing up to union leaders and telling them that, actually, the way that they had been behaving was not on and the ABCC was needed to keep the militants and lawbreakers within their ranks in check, what did Julia Gillard and Bill Shorten decide to do? They rolled over and did exactly what the CFMEU and other unions were demanding, and abolished the ABCC.

Of course, no-one would have been more delighted by this complete capitulation to union thuggery than the likes of Joe McDonald, the secretary of the CFMEU's WA branch. Without the ABCC in place, he has been free to resume his traditional disgraceful behaviour. Earlier this year Mr McDonald, who has a long history of bullying, intimidation and thuggery on Western Australian building sites, was fined $30,000 and banned from a Perth construction site for three years—once again for bullying. He was found to have threatened to have workers 'thrown off every building site in Perth' if they did not support strike action the CFMEU was encouraging. This is not an isolated case. Joe McDonald has repeated form in this area. Not long ago he and the CFMEU were fined almost $200,000 for their role in unlawful industrial action at the Citic Pacific Sino iron ore site in the Pilbara, in the far north of my home state. The federal court judgement in that case found:

Mr McDonald's conduct involves a calculated and careless attitude to the law governing the employment of persons by employers. It was calculated to cause disruption to employers carrying out building and construction work on the site and it was careless in that McDonald was aware of the legal consequences of his actions and pursued them nonetheless.

Indeed, Mr McDonald was proud of his flagrant disregard for the law. On that occasion, when his right to be on site was challenged because he did not possess a right-of-entry permit, he blithely said:

I haven’t had one for seven years and that hasn’t—

expletive—

stopped me.

All told, Mr McDonald and the CFMEU have, between them, been penalised to the tune of more than $1 million over the past decade for illegal industrial actions. Joe McDonald's history of criminal thuggery is well known to Western Australians. Indeed, it became well-known nationally in 2007—so well known that the then Labor leader, Kevin Rudd, ordered his expulsion from the Australian Labor Party. Julia Gillard was right on board at the time, saying:

Kevin [Rudd] and I have made it clear that under our leadership of the Labor Party there will be zero tolerance for unlawful conduct, for thuggery, in Australian workplaces.

Yet she seemed to have had a change of heart because less than six years later Mr McDonald was readmitted to the ranks of the Australian Labor Party where, so far as I am aware, he remains as a member to this day. True or false: does Joe McDonald remain a member of the Australian Labor Party to this day? Perhaps future speakers from the Labor Party might like to clarify that point for me.
That is not to say that the CFMEU's mischief is limited to the confines of my home state of Western Australia. Indeed, in Victoria the problems have been even worse. Almost the moment that the former Labor government abolished the ABCC in 2012, we saw a significant upswing in disgraceful conduct from the CFMEU in Victoria. In September that year, the CFMEU sanctions brought Melbourne's CBD to a virtual standstill. If you wanted an insight into the mindset of the CFMEU's leadership, there could scarcely be a more powerful one than the sight of its leaders telling a crowd of its members:

There’s 11,000 coppers in the country or in Victoria and there’s 30,000 members of the CFMEU and greater among the other unions when we call on their support, so we’re up around the 50,000 mark, so bring it on, we’re ready to rumble.

That is what we are dealing with: basically, a union leader saying, 'Don't worry, comrades, we can take on the cops.' That might appeal to those who exist in a fantasyland where every day is a goodie versus baddie Hollywood style script—a battle between the poor downtrodden worker and moustache-twirling capitalists—but it simply does not reflect modern reality.

More than that, such behaviour does absolutely nothing to promote the certainty and stability that the construction sector requires. In case it needed pointing out, the companies that the CFMEU demonises are the ones that actually create jobs for its members and, importantly, for its members' families. The union itself does not create jobs; it seems to create only trouble. No stronger proof of the complete disconnect between the CFMEU and the interests of ordinary workers is needed than the fact that in 2012 workers on building sites published an open letter in the *Herald Sun* newspaper, not to the government but to the leadership of the union that supposedly represents their interests, begging them to stop the blockades and the violence and to allow workers on site so they could go to their jobs. It really is utterly perverse: workers having to beg their own union to let them do their job.

One wonders how it is that the Leader of the Opposition, Mr Shorten, continues to tolerate this situation given the clearly criminal conduct undertaken by members of that union, including its senior figures like Mr McDonald, in Western Australia. Perhaps he values union donations more than the rule of law. Does Mr Shorten, the opposition leader, value union donations more than the rule of law? Perhaps future Labor senators speaking on this bill can clarify that point: does Mr Shorten, the opposition leader, value union donations more than the rule of law? Then again, perhaps we should not be surprised by his attitude, given the Leader of the Opposition's seeming attraction to militant union activity. That is no exaggeration. In 2013, in his capacity as Minister for Workplace Relations, Mr Shorten flew to Perth to address the conference of the Maritime Union of Australia. Standing in front of a banner boasting 150 years of militant struggle, Mr Shorten cheerfully told delegates: 'There's no place I'd rather be in Australia.' "There's no place I'd rather be in Australia' than in front of a sign that talks about 140 years of militant struggle?"

Of course, earlier this year we saw the MUA's ugly underbelly once again when, at its 2015 conference, a journalist from *The Australian*, Mr Andrew Burrell, was assaulted by an MUA member for the crime of attending the conference, which the MUA itself had invited him to attend. The MUA's WA secretary, Christy Cain, tried to distance his union from the attack. However, Mr Cain also sought to excuse the aggressor, subsequently identified as Mr Campbell Walton, on the ground he was suffering stress due to unemployment, except we later learned that was not true. Mr Walton is employed. He works as a stevedore in Perth and
also owns his own earthworks business. Once again, we see a culture of thuggery, intimidation and violence from the union movement in Western Australia. Once again we have deafening silence on these issues from the union movement's backers here in the Senate. It is interesting to note, Senator Day, that during my contribution so far, not one Labor senator has come into this chamber, and the two Labor senators sitting in the chamber have not challenged what I have said—

Senator Bilyk: I have.

Senator SMITH: I have not heard a word, Senator Bilyk.

The ACTING DEPUTY PRESIDENT (Senator Bernardi): Order! Ignore the interjection, Senator Smith, and I would encourage you not to invite the interjections.

Senator SMITH: When are the Labor Party going to say enough is enough and exile these rogue unions from its ranks? When are the Labor Party going to say enough is enough? Only when they are challenged by a coalition senator. What makes all this especially disappointing is that there are good unionists out there.

Senator Bilyk interjecting—

Senator SMITH: This is a most important part of my contribution, Senator Bilyk. What makes all this especially disappointing is that there are good unionists in our country. There are those who genuinely try to provide a service to their members. I do not doubt that for a second, but their efforts are constantly overwhelmed by behaviour from their colleagues that is either aggressive or criminal or just downright stupid.

You do not have to take my word for it, and indeed I am sure you will not take my word for it. Not long ago, Mr Mark Olson, the WA state secretary of the Australian Nursing & Midwifery Federation, penned an opinion piece in which he called for unions to focus on their core business, which he believes might actually stop haemorrhaging membership numbers. He condemned the recent 'paltry gathering of a few hundred at the steps of Western Australia's Parliament House', which was supposed to represent a mass worker uprising but instead made him:

... wonder why this event was even happening, other than to try and help Labor ... and perhaps boost the profiles of some union heavies in an election year.

He went on to say:

Workers are sick of self-serving union officials, helping out their buddies in the movement and in Labor, and not focusing on what's best for their members.

Indeed, Mr Olson is quite right, which is why workers are voting with their feet and why self-serving union figures like Mr Joe McDonald and Mr Christy Cain are resorting to increasingly desperate tactics to try and maintain their own relevance. This government is not about to let them do that, and it is certainly not going to do so at the expense of the national productivity growth.

Under the provisions of this legislation, the Australian Building and Construction Commission will be led by its commissioner, who will have the critical task of monitoring, promoting and enforcing appropriate standards of conduct by building industry participants and referring matters to other relevant agencies and bodies as required. The commissioner will also be responsible for investigating suspected contraventions of the law by building industry participants. They will also institute or intervene in proceedings in accordance with
those laws and provide assistance and advice to building industry participants on their rights and obligations under designated building laws.

This government will make certain that the ABCC once re-established will be properly funded to ensure it can do its work and restore some certainty to the nation's construction sector, on which so much direct and indirect employment depends. This legislation enables the Australian Building and Construction Commissioner to compel witnesses to attend an examination, or to produce documents, in circumstances where he or she reasonably believes that the person has information or documents relevant to an investigation into a suspected contravention of workplace relations laws. This is critical in making certain the re-established ABCC is able to carry out its investigations effectively. I have much more to say, but time is definitely against me.

**Senator BILYK** (Tasmania—Deputy Opposition Whip in the Senate) (11:03): I have to say I find it curious that the Prime Minister who said that Work Choices is 'dead, buried and cremated' seems to take a fairly backward step to the dark old days of Work Choices every time his government seeks to introduce a workplace relations bill to this parliament. While Labor struck a good balance between the rights of workers and the needs of employers in the Fair Work Act, every legislative move by this government has attempted to tip the balance unfairly back in favour of business.

We will be debating legislation this week which would tie up unions in so much red tape that they would be unable to effectively do their job—so much for a government that seeks to reduce red tape. Let us look at what has happened so far. So far we have seen legislation that will make it more difficult for union representatives to enter workplaces or talk to workers. We have seen attempts to reintroduce AWAs via the back door by weakening the better-off-overall test. We have seen the government dump Labor's 'clean start for cleaners' contracting principles, cutting the wages of cleaners who clean the buildings of government agencies, including this place. We have seen a highly centralised approach to bargaining across the Australian Public Service in an attempt to put strict caps on conditions and pay increases. We have seen the government try to cut paid parental leave for thousands of parents, mostly mothers, referring to many of them as 'double dippers' and 'rorters'.

In addition to the legislative attacks on unions and workers' rights and entitlements we have also seen $80 million of taxpayers' money already wasted on a political witch-hunt, the Productivity Commission being used as a proxy for the government's attack on penalty rates and the government flagging plans to wind back the protection of wages and conditions for Australian-crewed ships.

Work Choices is not 'dead, buried and cremated'; it is merely in hibernation. They have merely had it lying low. Let us not ever forget that Mr Abbott said Work Choices was 'good for wages; it was good for jobs; and it was good for workers'. Despite their rhetoric, we know that the coalition cannot walk away from Work Choices. The urge to reintroduce elements of Work Choices is Pavlovian. It is in their DNA. So it should not surprise any of us that the Abbott government will continue its attack on workers by dusting off its draconian Australian Building and Construction Commission, or ABCC.

The establishment of the ABCC, as Senator Smith said, followed the Cole royal commission. Senator Smith had a lot to say on the Cole royal commission, but there are a few things he did not mention, and I will come to those. The Cole royal commission was
effectively a futile and very expensive exercise initiated by the current Prime Minister when he was workplace relations minister. It took 18 months and some $66 million to run the Cole royal commission but—and this is the bit Senator Smith did not say in his somewhat biased comments—after 18 months and $66 million of taxpayers' money, do you know how many criminal convictions the government managed to secure? Would anyone on that side like to hazard a guess? Let me tell you. None, not one, zilch, absolutely zero. So much for the supposed criminality, fraud and corruption in the building and construction industry.

It appears that Mr Abbott and those opposite have not learnt their lesson about the folly of using royal commissions to pursue ideological battles. A royal commission is meant to be an instrument of justice, not a political instrument. It is meant to shine a light in dark places and investigate matters that have been unable so far to be uncovered. But the Cole royal commission was the start of a pattern displayed by those opposite, a pattern of using royal commissions to pursue their ideological battles against political rivals.

Now we have got the long-running, expensive political witch-hunt in the form of the Royal Commission into Trade Union Governance and Corruption. For those in the gallery and those listening who may not be aware that the trade union royal commission is a political exercise, on this side we are particularly concerned with the royal commissioner's judgement in accepting an invitation to help raise funds for, guess who, the Liberal Party. The recent revelations about Mr Abbott's royal commission and his captain's pick of a royal commissioner, Mr Dyson Heydon, confirm this. The community have legitimate concerns about the affinity of the commissioner with Mr Abbott and the Liberal Party. In fact, over the weekend I do not know how many people spoke to me about it.

I believe the commissioner really needs to consider whether his ongoing role in the royal commission is tenable. The royal commission is and always has been a political exercise commenced by Mr Abbott to go after his political enemies. And who are his political enemies? The Labor Party and the trade union movement. I believe that only a lawyer with a predisposition to the Liberal Party would have taken on this blatantly political royal commission. You only have to look at the terms of reference to know the intention of the government and that it is a political witch-hunt.

In regard to the fundraising event that the commissioner was going to attend, no matter what the commissioner knew and when, it is clear from his own correspondence that his predisposition is to the Liberal side of politics. To top it all off, we have seen the New South Wales Liberal Party absolutely refusing to reveal when the commissioner was invited to speak at the Liberal Party fundraiser, an event that we all know has been addressed by prominent Liberals since it commenced in 2010. So I think there needs to be a bit of revisiting some of the commissioner's conduct, some of the commissioner's rulings and some of the commissioner's conclusions so far and the question needs to be asked: was any of it influenced by the commissioner's political world view? The commissioner has consistently gone beyond what might constitute corruption to what is legitimate industrial behaviour dealt with according to the industrial laws in place in this country.

The tendency of those opposite to use royal commissions as a political instrument has many unfortunate consequences. One in particular is that they waste tens of millions of dollars of taxpayers' moneys for absolutely no public benefit. Just look at the Cole royal commission. They are an exercise designed to produce a headline, to fight ideological battles.
and to embarrass the political rivals of those opposite. Another unfortunate consequence—and one I think is really sad—is that they have the potential to undermine the credibility of those royal commissions that actually are being used for public benefit and for justice and that are not merely a political exercise. With the royal commission currently being conducted into the serious issue of child sexual abuse—an issue which everybody in this place knows I am very passionate about—I consider this to be extremely unfortunate.

While those royal commissions that are used as an expensive political exercise by those opposite help to generate a headline, they are also a useful excuse for the coalition to introduce legislation aimed at gaining further power over their political rivals. And this was the other purpose of the Cole royal commission—to be the catalyst for establishing one of the most draconian bodies in Australia's history.

There is absolutely no justification for this bill we are debating today. There is already a watchdog for the building industry, and it is highly effective. The building industry watchdog that Labor put in place, Fair Work Building and Construction, has actually been outperforming the ABCC. Fair Work Building and Construction is undertaking more investigations, concluding more investigations and getting matters to court faster and recovering more money for workers in the industry. It has secured over $2 million in unpaid wages and entitlements for more than 1,500 workers. Under Fair Work, labour productivity is up, and industrial disputations have dropped dramatically compared to their levels under the Howard government.

The Abbott government use flawed modelling to back its argument that a body such as the ABCC needs to be reintroduced. The firm whose report they relied on, which is now called Independent Economics and was called Econtech, has a history of churning out report after report purporting to support the case for the government to attack the CFMEU. The claims in the report—particularly that the ABCC produced $6 billion in productivity savings—have been debunked by a range of people, including Justice Murray Wilcox QC, the Queensland Government's department of industrial relations, and academics from Griffith University. Justice Wilcox said the modelling is 'fundamentally flawed' and 'ought to be totally disregarded'. So basically you can disregard any comments that those on that side make in regard to those reports. But far be it from those opposite to engage in evidence-based policymaking, unless they are relying on discredited evidence which suits their predetermined agenda. For those opposite, this is personal and ideological. We know, as I have said, that WorkChoices is in their DNA. We know that a coalition government will stop at nothing in attacking the rights and entitlements of workers. And we know that they will stop at nothing to attack those who stand in their way, particularly the trade union movement.

They do not like the fact that workers organise and bargain collectively, that they can negotiate on an even footing with big business—after all, big business are their financial and political backers, their mates. Those opposite, the Liberal-National coalition, are in their corner on workplace relations, just as they are on issues like multinational tax avoidance. Yet, those opposite have learned the hard way that Work Choices is politically toxic, so they try the boiled frog approach instead—introducing legislation bit by bit, aimed at cutting entitlements and attacking the collective power of the trade union movement. I think the Australian people are too smart to be fooled by that. They will not accept Work Choices 2.0
any more than they will accept the first version. Draconian bodies like the ABCC are part of the architecture of Work Choices and they should rightly be rejected.

Senator XENOPHON (South Australia) (11:15): At this stage, I would like to indicate that I will support the second reading of the Building and Construction Industry (Improving Productivity) Bill 2013 and related bill, but I reserve my position on the third reading. There are matters that I believe need to be thoroughly negotiated with the government, and with the opposition, in my view, to involve key stakeholders. That includes not only industry groups that are concerned about the state of play on building sites in this country but also the unions. These bills propose measures that are controversial and contentious. On the one hand, unions have a vital role in Australia's workplace relations system and they must have the freedom and power to be able to do their jobs. That involves not just issues about terms and conditions for their employees—obviously fundamental—but also issues of workplace safety.

Whilst I was a member of the South Australian parliament, I did propose, and it was rejected by a state Labor government, that we ought to have industrial manslaughter laws. I think we need to have tougher laws in place when it comes to workplace safety and there ought to be appropriate and strong penalties in respect of that. Insofar as unions require a right of entry for the purpose of safety issues, then I think that is quite fundamental and ought not to be derogated from.

On the other hand, concerns have been raised through the royal commission, and the Boral court case cannot be ignored—and I will refer to that shortly. I think it is appropriate, at this stage, to refer to the controversy around Royal Commissioner Dyson Heydon and the invitation to a Liberal Party fundraiser. Notwithstanding that not much money probably would have been raised at that fundraiser—presumably there can be auctions and other peripheral fundraising activities that usually occur at these things—it was an invitation about which we need more information from the royal commissioner. I think it is quite reasonable for the royal commissioner to provide a detailed and thorough explanation as to what he was aware of at the time he accepted the invitation, when he accepted the invitation and whether he was the commissioner or about to be appointed as commissioner for this royal commission. If he did so whilst he was royal commissioner and he assumed that the royal commission would be over by then and that there would not be a problem attending this fundraiser, and he was aware that it was a Liberal Party fundraiser, then, on an objective basis, I think that would show a significant error of judgement on the part of the royal commissioner. If so, he ought to apologise for that.

Notwithstanding what the member for Sturt has said, that this was a birthday gift for him the other day on his 48th birthday—and happy belated birthday to Christopher Pyne—as you know, Acting Deputy President—

The ACTING DEPUTY PRESIDENT (Senator Bernardi): I would ask you to refer to the member for Sturt by his appropriate title, Senator Xenophon.

Senator XENOPHON: What title would that be?

Senator Bilyk: Mr!

Senator XENOPHON: Mr Pyne, sorry—the Hon. Mr Pyne. Thank you for defending the honour of the Hon. Christopher Pyne, Mr Acting Deputy President. I am very grateful for being pulled up on that.
Senator COLBECK: A principle worth upholding.

Senator XENOPHON: It is worth upholding. It was unambiguously a very serious issue that still needs to be ventilated because there are issues that some have raised about apprehended bias. I know there are different academics raising different views about this. I note that Julian Burnside—no friend of the coalition government—has defended the commissioner. At the very least, if the commissioner accepted this invitation, assuming that the royal commission would be over, then I think it shows an error of judgement on his part and an explanation is warranted.

In my view, if you are a royal commissioner on something as contentious as this, then for the rest of your life you should not even be thinking about attending any political event or any party fundraiser. It is interesting to note what some commentators have said, such as Michael Stutchbury—the editor of The Financial Review—yesterday on Insiders. He used to do music reviews for me when I was on the Editor many years ago at Adelaide university and is a fine music review writer. He raised issues about the nature of the interchange between the royal commissioner and the opposition leader. There are some reasonable commentators who are saying that that may have been seen to be somewhat too harsh and unnecessary in terms of the royal commissioner's intervention.

The royal commission has gathered evidence, some of which I find quite compelling, about allegations of corruption and about allegations of bullying and harassment. These matters also relate to serious allegations of misuse of funds, boycotts, threats and even corruption. These allegations, if true, are clearly unacceptable. And they raise the question of whether our existing legislative framework is strong enough to properly address these issues. We know the commercial building sector is a very substantial employer. I want a strong and vibrant building and construction industry in this country in the commercial sector as well as in the home-building sector. I want the workers in that industry to go to a safe working environment where occupational health and safety are of paramount consideration. I also want them to be well paid for the work that they do. If there are impediments, then they need to be dealt with in a way that people's rights are considered.

I want to make it very clear that union representatives I have worked with in the past and whom I am working with on current issues have always been strongly against the kind of action that this legislation aims to address. I think it is an interesting paradox that there is no suggestion that Michael O'Connor, the head of the CFMEU—someone with whom I have worked very closely on issues involving free trade, 457 visas and putting Australian jobs first—has been involved in these sorts of activities. I find him to be a person of great integrity.

I have also worked recently with Aaron Cartledge, the state secretary of the CFMEU in South Australia, who has been subject to some allegations. However, one issue that I have worked with him very constructively on is substance abuse on building sites, particularly the use of ice. He has shown a lot of leadership in relation to that, because he does not tolerate it and the impact that it can have on a work force and the safety of not only those who are abusing the substance but also others on building sites.

More recently, I have also worked with Mr Cartledge and met with a number of subcontractors in relation to the collapse of Tagara Builders—a complete mess that has left many people in the lurch. I have to give credit to Mr Cartledge for the work that he has done
on that. We need a better approach to this in consultation with industry so that subbies—the subcontractors—who have been left in the lurch and face financial ruin have better forms of redress. I also wish to pay tribute to Senator Cameron’s work in relation to this, and I hope that the inquiry will have a hearing in Adelaide sooner rather than later, because it would be incredibly welcome. We need a better approach to dealing with that.

Insofar as there are allegations of bullying, intimidation and corruption, they need to be dealt with. I do not subscribe to the view that unions are uniformly bad or that they have too much power. I do very strongly believe that they have responsibility and a duty of care to their members; in the environment that they work in, they do not cause unnecessary and needless disruption; and they should be subject to greater scrutiny in that regard.

I also believe that, as in any negotiation, there may be particular individuals or groups who act in their own interests who are rogue operators instead of acting in their members’ broader interests. It is these people who I believe this legislation ought to be targeting. The question is: are the measures in these bills fair and proportionate to the issues that they are trying to address?

I have some concerns about limiting the control of a body such as the ABCC solely to the building and construction industry—and I do not want to verbal my friend and colleague Senator Madigan about what to do about corruption in other sectors where there are concerns in other workplaces. I acknowledge the argument, however, that this is where most of the concerns have arisen but I wonder whether this legislation should be so targeted at one sector. Surely, there are legitimate concerns in other sectors that could benefit from the oversight provisions in these bills.

A few months ago I supported, unambiguously, the need to give the fair work building inspectorate the coercive powers to call in witnesses just as the ACCC, ASIC and other key regulators have. Without those powers, you will not get in my view some witnesses coming forward. There has been intimidation in respect of that from the evidence that I have heard.

I note that my crossbench colleagues Senators Madigan and Lambie have expressed concern about the breadth of this legislation. I look forward to exploring these matters in more detail during the committee stage, if the bill is passed at the second reading stage—as I hope it will—because I think these are legitimate issues that need to be vented.

I also think it is important to clarify that I believe that some changes need to be made in this area. What I am hoping to have clarified by the government through this process is why the new ABCC has to be established and why the additional powers should simply rest with the Fair Work Building and Construction inspectorate or Fair Work more broadly. I will also be seeking assurances from the government in relation to maintaining the right of entry and other matters for union representatives in relation to legitimate workplace and safety issues. I do not want to see reasonable union behaviour curtailed and I want unions and businesses to have access to the tools they need to combat the serious issues that have come to light.

In relation to the issue of Boral, that is a matter still before the courts; however, I do not think it is improper to raise the fact that this has taken a long time for our legal system to deal with these issues. It raises issues about access to justice, which is a much broader issue in civil and all sorts of disputes in this country, but it has had a significant impact on one particular company. If the allegations are proven, then it raises issues as to whether there has
been an abuse of power in that regard. I think that there must be a better way for the resolution of such disputes, and the difficulties in the gathering of evidence in this case raise issues about whether you need to have the sorts of mechanisms that have been raised in this legislation in some form to deal with disputes.

At the end of the day—and I emphasise this—I want there to be a strong building and construction industry in this country. Building and construction can provide a real antidote to the job losses we are expecting in manufacturing. Having people working in a safe, working environment on good incomes is absolutely fundamental. My concern is that there needs to be some reform to help facilitate that. The issue is: to what extent do you go in this legislation? I think it is worth having this bill go into committee for further negotiations in respect of this.

Senator ABETZ (Tasmania—Leader of the Government in the Senate, Minister Assisting the Prime Minister for the Public Service and Minister for Employment) (11:28): I thank honourable senators for their contribution to this debate. I also indicate that, in the event that the second reading is supported by honourable senators, I will be seeking to adjourn further debate—namely, the committee stage—for further discussions to take place.

Prior to the 2013 federal election, the coalition committed to re-establish the Australian Building and Construction Commission to restore the rule of law to a sector that is plagued by lawlessness, intimidation and thuggery. The government consulted widely seeking feedback on this important policy to identify issues which need to be addressed.

The construction industry is critical to a productive and prosperous Australia and is vital for jobs. It is the nation's third largest employer, with more than one million people employed by the 100,000-plus predominantly small and medium businesses. The sustainability and success of the construction sector are crucial to the Australian economy and to the Australian people.

The need to re-establish the ABCC is clear and evident. This industry, regrettably, stands apart from others in terms of its industrial unlawfulness. For far too long there has not been a meaningful consequence in the construction industry for doing the wrong thing. Who is then surprised that this has resulted in a culture where complying with the law is taken to be merely optional? Industrial laws and penalties in this industry are seen as no more serious than a parking ticket where the fine is paid, the cost charged to the client or union members and the offending conduct repeated again and again. Since 2005 the courts have imposed fines of over $6.1 million on CFMEU related unions and officials for proven breaches of the law, but even this has not been enough to deter those activities from continuing—remembering that these are breaches of laws that have passed through this chamber but are yet ignored. The Federal Court recently spoke of the CFMEU's 'outrageous disregard' for 'Australian industrial norms'. The court also cautioned that breaking the law should not be seen as 'nothing more than an affordable price of doing business'. Yet, because Labor and the Greens slashed the maximum penalties for industrial wrongdoing in this area by two-thirds, that has only promoted the CFMEU's business model of breaking the law.

Re-establishing the ABCC is about introducing a meaningful consequence for unlawful industrial conduct in the construction industry, whether by unions or employers. It is about bringing about a needed change in the culture. When there is an effective regulator enforcing laws with meaningful penalties, there will once again be a deterrent for breaking the law, and
those who would previously have done the wrong thing, simply because they could, will think twice.

While the ABCC existed, the performance of the construction sector improved. The ABCC contributed to economic benefits for consumers, higher levels of productivity and fewer days lost to industrial action, and we saw an increase in respect for the rule of law across the country. This benefited all law-abiding workers, unions and employers and the taxpayer.

Labor abolished the ABCC in 2012 and replaced it with a significantly weakened regulator. Labor slashed its budget by $9 million each year, making it even more difficult for the independent regulator to do its job. What flowed from Labor abolishing the ABCC was entirely predictable. Almost immediately we saw the CFMEU shut down parts of the Melbourne CBD for days on end in defiance of Supreme Court orders. Who can forget seeing on the news footage of protesters yelling abuse and threatening workers trying to get to work—workers who were actually members of the CFMEU, by the way—or protesters attacking police horses? All this while, CFMEU officials actively promoted this ugliness.

I am amazed that certain Labor and Greens senators opposite sit in silence when faced with such conduct and do not immediately condemn such abhorrent and repeated unlawful and thuggish behaviour. If the Senate were faced with such unlawfulness in another part of society as has been seen in the construction industry, there would be an outcry, and rightly so, yet we have silence from those opposite in respect of the construction sector. There are currently 69 CFMEU representatives before the courts or the Fair Work Commission, and the courts have time and again commented that the CFMEU simply shows no contrition despite repeated penalties being imposed on it for its wrongdoing.

The current system is simply not effective. It was only on Friday last week that a Federal Court judge fined a CFMEU official for his contempt in ignoring the court's orders. The judge said:

The CFMEU has a significant history of non-compliance with the provisions of industrial legislation … I have remarked upon the fact that each of the individual respondents' conduct indicates that each—

simply did not care about complying with the entry provisions.

In that case, the court found that the CFMEU officials had threatened to go to war against the subcontractor if he did not employ a CFMEU official and put him on the payroll. This was last week in South Australia, not some historical reference to the former BLF. This was a decision of the Federal Court in Adelaide just three days ago.

It reminds me of an earlier case where a CFMEU official was found to have said to a contractor in Victoria:

Everything works on a bit for youse and a bit for us. Forget about the law, … right?

Another CFMEU official in Queensland was found to have told a group of contractors who had been prevented from working because of the union blockade:

You've all got a long time left in the industry, and we can influence your future jobs.

When one of the subcontractors asked, 'What are the consequences to my business if I bring my boys on site?' the union official replied:

You want to know what the consequences are? You would be committing industrial suicide.
I am sure senators from South Australia, Victoria and Queensland in particular would join me in condemning these examples of the disregard shown for the laws of this parliament in their home states.

Regrettably, these are not isolated incidents. They disclose a culture in the construction industry of wilful defiance. The list of examples continues. Only last week, there were allegations finally explored in the Royal Commission into Trade Union Governance and Corruption over the conduct of the CFMEU—listen to this—in siphoning off half of all employer EBA payments meant for a drug and alcohol facility straight into the CFMEU's own coffers.

In another example of the graft revealed in evidence, the CFMEU had skimmed $80,000 of a $100,000 donation by a construction company to a drug and alcohol facility. The CFMEU took an unauthorised 80 per cent donation for itself. Yet Labor and the Greens would say, 'Nothing to be seen here; move right along. We don't need to deal with this.' This conduct shows there are elements in the industry, particularly in the construction division of the CFMEU, that are more interested in exercising their power over others and lining their own pockets. I would also say that I think employers have a huge responsibility here. But one suspects these payments are simply made to buy some industrial peace and whether the money gets used for drug and alcohol purposes is a secondary consideration.

I will move on to the point of safety. The act that established the former ABCC, the present bill and Labor's Fair Work Act have the same standard of safety in respect of stopping work over safety concerns. The proposed ABCC legislation uses the very same standard on safety that Labor put in its Fair Work Act and which currently applies in the construction industry. Incidentally, this is the exact same standard which was previously included in the former ABCC legislation. This bill does not contain any provisions that would prevent legitimate safety issues in the building industry from being raised and addressed by employees, unions or state and territory work, health and safety regulators. I also note that the bill retains the role of the Federal Safety Commissioner and the Australian government's building and construction industry work, health and safety accreditation scheme. The misrepresentations over this important issue should be seen for the shameless tactic it is; namely, to deflect and distract from their unlawful industrial conduct.

On the issue of the compulsory powers, I have made it clear many times in this place that they are similar to powers that Labor gave to the FWBC. And Senator Xenophon outlined that the powers that the ACCC, ASIC and APRA have are very similar, other than there are a lot more safeguards under this legislation.

A very important aspect of this legislation is that it will remove the absurd and unprincipled restriction on the current regulator to which no other Commonwealth regulator is subject. This is in fact without precedent. This restriction prevents the regulator from commencing or continuing legal proceedings if private industrial parties reach a 'settlement' in their own interest. This put private interests above the public interests. When this absurd restriction was forced through this place by Labor and the Greens even the Law Council of Australia condemned such a restriction on a public regulator. This private settlement arrangement is subject to abuse. It is the equivalent of the Fair Work Ombudsman being unable to prosecute an employer guilty of underpaying a worker because the worker and employer reached a confidential settlement which could be for a nominal sum of $1. This also
has the perverse outcome that, once wrongdoers achieve what they set out to achieve through unlawful means, they have an added incentive to coerce parties into confidential settlements so the public regulator cannot prosecute.

We recently saw an example of how this absurd restriction played out in Queensland with respect to the nine-week strike at the Lady Cilento Children's Hospital site. Just before the judge handed down his decision on wrongdoing over the nine-week stoppage, the CFMEU and ETU entered a confidential settlement with the builder; meaning the FWBC was unable to take any action in the courts in respect of the nine weeks that were lost on that important public project. At the end of the day, the regulator was legally prevented from enforcing the law and the taxpayer was left to foot the bill. If such a restriction on enforcing the law in the public interest were imposed on the police, on the Fair Work Ombudsman or the ACCC, there would be an outcry from those opposite—and rightly so. Yet, when the favour is done for the benefit of the construction unions, which are significant donors to Labor and the Greens, there is simply shameful silence from those opposite.

Any objective observer can recognise that there is a particular problem in this industry; yet the ABCC was regrettably abolished before it could achieve a lasting change in culture in the industry. I recall at one time the construction union was crying for 'one law for all' in arguing for the abolition of the only regulator that was keeping it in check. When one considers the appalling rap sheet of the CFMEU and its litany of regular and repeated industrial contraventions, it is clear that the CFMEU has no credibility when it calls for the application of 'one law for all'. It ignores Supreme Court injunctions. It ignores orders of the Fair Work Commission. It thumbs its nose at the rule of law, which it says everybody should abide by. The FWBC reports that it now has more cases before the courts than ever before. As I said a moment ago, there are currently 69 representatives before the courts. More than 90 per cent of FWBC cases before the courts involve allegations of wrongdoing by the CFMEU. Is anyone surprised that the ABCC, which was effectively started to hold the CFMEU to account for breaking the law is opposed by the CFMEU?

There has been the suggestion that, as a solution, we should deregister the CFMEU. I would make three points. Firstly, when the Builders Labourers Federation was deregistered in the 1980s it was a Labor government, with the support of a responsible opposition, that passed the legislation. The fact is that the current Labor opposition and the Greens are so beholden to the CFMEU that they would not support such a measure. Secondly, the deregistration of the BLF did not solve the problem of the culture in the industry. Here we are again dealing with the BLF by a different name and once again facing endemic industrial unlawfulness in the industry. Former BLF tactics have simply migrated to the CFMEU—which leads me to my third and key point.

The purpose of the ABCC is to introduce into the industry the concept of respect for the rule of law. The ABCC will work to introduce a culture in which any party, whether an employer, employee or union, accepts that they must comply with the laws set by this parliament. Indeed, I am reminded that just last week Baulderstone, a major construction company, was fined for having demoted a worker where the only reason that could be proffered was that this worker had resigned from the CFMEU. This sort of cooperation behind the scenes between big unions and big employers needs to be weeded out, and I am
delighted that Baulderstone was publicly shamed by this case and fined for so doing. This is why we need the ABCC.

The bill will also provide for a building code. This applies to employers, and only employers can be sanctioned for breaches of it. The code will mean employers can no longer just ignore wrongdoing on their sites because they do not want to get involved. Employers will no longer be able to ignore inefficient practices and cost blowouts because they know they can just pass the cost on to their client, who is often the taxpayer. The building code will require strict compliance with employment, safety and migration laws. Why shouldn't the taxpayer expect that projects funded with tax dollars are run efficiently, lawfully and safely? The new code will have a new and streamlined enforcement mechanism to allow the ABCC to efficiently impose sanctions on employers who breach the code. The code will introduce a real commercial consequence on employers for doing the wrong thing or for allowing laws to be broken on their sites.

There has been a concerted campaign of misinformation about the code—for example, the absurd suggestion that the code bans RDOs or time off over Christmas or Easter. Each of these claims is simply false. Why they are made beggars belief, but it indicates the paucity of argument against the proposal that is currently before the Senate. One only needs to ask: what are the true motivations for the misrepresentation and untruths that are propagated in opposition to the return of an effective regulator and an effective building code that will hold employers to account?

The problem of endemic industrial unlawfulness in this industry has been clearly established. No objective observer can argue that the construction industry is simply like any other; it has shown itself to stand apart from other industries. The current laws have proven not to be enough. What is proposed in this legislation is about changing culture so this industry becomes like every other—that is, one in which the law always applies rather than only when convenient. The Senate today has a clear choice before it: to either send a message to the construction industry that it must comply with the law like everyone else or turn a blind eye and endorse the construction industry's history of ignoring the laws of this parliament and engaging in intimidation and bullying.

The problems with this industry are obvious. The choice is clear. The consequences flowing from that choice will be evident soon enough. As this nation embarks upon its most ambitious infrastructure-funding project of over $50 billion, it is vital to ensure that the construction sector is brought to account to abide by the rule of law so that the $50 billion worth of money invested by the Australian taxpayer proves value for money and that these projects can come in on time and on budget. I commend the legislation to the Senate.

The Senate divided. [11:53]

(Ayes: 33, Noes: 34, Majority: 1)

AYES

Abetz, E
Birmingham, SJ
Canavan, MJ

Bernardi, C
Bushby, DC (teller)
Cash, MC

CHAMBER
Senator Back did not vote, to compensate for the vacancy caused by the resignation of Senator Milne.

Question negatived.

Fair Work (Registered Organisations) Amendment Bill 2014 [No. 2]

Second Reading

Senator ABETZ (Tasmania—Leader of the Government in the Senate, Minister Assisting the Prime Minister for the Public Service and Minister for Employment) (11:56): I move:

That this bill be now read a second time.
I seek leave to have the second reading speech incorporated in *Hansard*.

Leave granted

*The speech read as follows—*

I rise to reintroduce the Fair Work (Registered Organisations) Amendment Bill 2014 because this Government stands on the side of the honest worker and is absolutely committed to ensure that we never again have a situation, like occurred in the Health Services Union, where union bosses can rip off union members.

The Fair Work (Registered Organisations) Amendment Bill implements the Government’s election commitment outlined in the ‘Policy for Better Transparency and Accountability of Registered Organisations’. It will enhance the accountability and transparency of registered organisations by broadly aligning the obligations of office holders, penalties and powers of the regulator with the Corporations Act 2001.

The bill increases civil penalties and introduces criminal offences for serious breaches of officers’ duties similar to those applicable under the Corporations Act. The bill also establishes the Registered Organisations Commission as independent but within the Office of the Fair Work Ombudsman.

Most importantly, especially for those opposite who claim this to be a partisan venture, the policy principles behind this bill are supported by Simon Crean, Martin Ferguson, Robert McClelland, Paul Howes, Ian Cambridge and Steve Purvinas—all doyens of the labour movement. The bill also addresses concerns raised in the Federal Court by Justice Anthony North who said that the penalties under the existing legislation are ‘beneficially low to wrong doers’.

This legislation will bring penalties in line with the Corporations Act because we believe that there is no difference between a dodgy company director ripping off shareholders and a dodgy union boss ripping off members.

I want to absolutely stress, that the only people who have anything to fear from this bill are those who are doing the wrong thing. I also want to re-affirm that the Government firmly believes that the vast majority of officers of registered organisations do the right thing.

I note that the Senate earlier this week defeated this bill, but it is important to recognise that the debate was quite bizarre in that the primary reasons that the Opposition opposed the bill are in fact actually issues already enshrined in the legislation as it currently stands today and is in full force. The onerous disclosure obligations that currently exist were in fact imposed by the Leader of the Opposition when he was Minister for Workplace Relations and will be removed under the Government’s bill.

For example, the Government moved amendments to remove unnecessary disclosure requirements on officers and organisations that were first included by the previous Government’s 2012 amendments to the *Fair Work (Registered Organisations) Act 2009*.

They align disclosure requirements more closely with long standing governance and accountability provisions under the *Corporations Act 2001*.

We have moved amendments to section 293C, which relate to disclosure of material personal interests of officers. This will significantly reduce the number of officers who will be required to make disclosures. The amendments ensure that:

- Only disclosing officers, those whose duties relate to financial management of the organisations, must disclose their material personal interests.
- Officers no longer need to disclose the material personal interests of their relatives.
- Disclosures also only need to be made to an organisation’s committee of management and can be given as standing notice. Previously, disclosures had to be given to the entire organisation and included in the officer and related party disclosure statement.
Previously there were no exceptions to the requirement for officers to disclose their material personal interests. A number of new exceptions have been included. A disclosing officer does not need to disclose their interests if, for example, they:

- arise because they are a member of a registered organisation and the interest is held in common with other members;
- arise in relation to their remuneration as an officer;
- relate to a contract the organisation is proposing to enter into that needs to be approved by members and will only impose obligations if approved by members; or
- if the interest is in a contract with a related party and arises merely because the officer is on the Board of the related party; or if the officer has given standing notice of their interest.

The Government also moved to amend the current law to ensure that financial officers with relevant experience can apply to the Registered Organisations Commissioner for an exemption from approved governance training. This will mean fewer officers who are required to undertake such training.

These are all issues that were identified by Labor as problems. They are problems that exist in the law as it stands today. They are problems created by Labor and we will fix them with this bill.

As my colleague the Minister for Employment has said previously, there is only one major party in this place that supports a clean and honest union movement. And it is not the party of the unions. In opposing this bill in the other place, the Opposition demonstrated that it has learned nothing, that its first instinct is to protect crooked union bosses rather than honest union members. This bill, had it been in place, would have protected union members from the likes of Craig Thomson and Michael Williamson. By not supporting the bill, the Opposition is leaving union members at the mercy of future Craig Thomsons and Michael Williamson.

I won't seek to cover the bill in further detail given that this is a reintroduction. I simply call on all Members to support honest union members and honest union bosses by supporting this bill.

I commend the bill to the Senate.

Senator CAMERON (New South Wales) (11:56): Labor opposes the Fair Work (Registered Organisations) Amendment Bill 2014 [No. 2]. This bill is a virtual replica of the Fair Work (Registered Organisations) Amendment Bill 2013 which was rejected by the Senate on 14 May 2014. It is also a virtual replica of the Fair Work (Registered Organisations) Amendment Bill 2014, which was rejected by the Senate on 2 March 2015. The only difference is that this bill includes government amendments to the previous 2014 bill that were agreed to in the House of Representatives. This bill is unnecessary and imposes burdensome regulation on registered organisations that no-one wants—employee organisations do not want it and employer are organisations do not want it.

This bill epitomises the government's determination to destroy effective collective bargaining and effective trade unionism in this country. It demonstrates clearly that the extremists are in control in the coalition. We have Senator Abetz, a work choice warrior, pursuing this bill to try to stop workers having access to effective trade unions in this country. We saw what happened when this government had control of the Senate. They attacked workers' penalty rates, they attacked their annual leave loadings, they attacked their conditions. We only have to see what they are doing at the moment without the control of the Senate, they are proposing to increase the working hours of public servants in this country. They want to remove conditions from the Public Service in this country. They want to weaken bargaining and union representation of workers in this country. They want to change the
higher duties qualification for public servants in this parliament. They want to change personal and carers leave for public servants. They want to attack the trade union movement and workers every opportunity they get. Nothing could epitomise that more than this bill and the actions that the cleaners in this parliament are having to take this week to protect their wages and conditions against attacks on the cleaners of this parliament. These are some of the weakest people in the parliament, with the weakest bargaining capacity. They are some of the people who need support to get decent wages and conditions. Some of the cleaners are working two to three jobs to keep food on their family's table, and yet this government attacks them by cutting their wages.

Look at Hutchison Ports where, until Senator Abetz was forced into an embarrassing reversal, he basically indicated that sacking a worker by email or text message was okay. He had to retract that and move away from that, basically after providing what his real position was.

These people are extremists. These people do not care about workers' rights in this country. These people do everything they possibly can to diminish workers' capacity to balance up their bargaining power against the boss. That is what it is all about.

Look at this royal commission that they have established—a royal commission that is clearly exposed as a political attack on the trade union movement and their political opponents. That is what this government are about; they are about a naked attack on their political opponents. They use a royal commission and put their mate in as royal commissioner. Their mates go down and sit in that commission, attacking the Leader of the Opposition and attacking trade unionists on the floor of the royal commission. This is the same royal commissioner who accepted an invitation to go to a Liberal Party fundraiser. That is the type of behaviour that this government undertakes, and this legislation is part of that general attack on workers' rights to bargain in this country.

If you look at the ABCC: thankfully, this Senate has again stopped the attack on workers' rights in the building and construction industry. They have set up a Fair Work Building Commissioner who is biased, who is incompetent and who attacks the workers in the industry at every opportunity. This is a government which have absolutely no understanding of fairness and no understanding of the need for collective bargaining in this country.

They have established a Productivity Commission review to try to give them cover in order to cut the penalty rates of workers in the hospitality and retail industries. The Productivity Commission was cover—nothing more than cover—to come out and say, 'Cut the penalty rates of workers in retail and other areas! Cut the penalty rates of some of the lowest-paid workers in the country!' And we know that is what this government want to do.

They think this country can become more productive by forcing workers into servitude. They think this country can become more productive by cutting wages to the lowest they possibly can. They think this country can become more productive by forcing workers to rely on tips, as workers in the United States of America do! This is a government that is completely out of touch with ordinary Australians—absolutely no idea what it means to struggle to put food on the table, to buy their kids schoolbooks, to put the kids into school uniforms and to send them off to school. They have absolutely no idea. All they want to do is act on behalf of their big business mates and act on behalf of their mates who do the brown paper bags in front of their Bentleys in Newcastle, to get their support for re-election. That is
what this government are all about. No-one should have any misunderstanding about what this attack and this legislation are about.

They scrapped the low-income superannuation benefit for some of the lowest-paid in the country. Everybody knows that the lowest paid will need more support and more help to get a decent retirement—a retirement with dignity. But what do this mob do? They cut away at their capacity to get a decent retirement.

They have made a submission to the national minimum wage review, which basically said to give them nothing—give the lowest-paid in this country nothing! They are a government completely at odds with fairness and equity. They are a government which cannot be trusted. They cannot be trusted. If you look at what they said before the election in terms of industrial relations, in terms of taxation, in terms of funding for the ABC and in terms of pensions, then what have they done? They have gone back on every promise they made to the Australian electorate before the last election.

And then they brought about a budget that has been universally condemned—a budget that was about looking after their mates with their fat wallets at the big end of town and coming after workers and pensioners in this country. Well, this bill is another part of the push by this government to suppress workers' rights and to suppress workers' capacity to be able to bargain effectively against employers that want to reduce their wages and conditions. It has nothing to do with productivity; it has nothing to do with oversight of the trade union movement and it has nothing to do with decency for workers in this country.

Ten coalition MPs are on the public record in calling for cuts to penalty rates. I remember when I was on the job as a fitter in the power industry and in the shipbuilding industry. I needed my penalty rates to pay my bills, to pay my rent and, eventually, when I got a house, to pay my mortgage. The penalty rates were important! This bill will weaken the organisations that will help workers maintain and improve their wages and conditions and protect their penalty rates in this country. This is another example of a coalition government that has no care for ordinary workers in this country, a coalition that will simply deliver for its big business mates whenever it possibly can.

And yet on this bill Senator Abetz has done something that I did not think would be possible in this term of government. He has actually united the trade union movement and employer organisations to say that this bill is unfair, that this bill is not appropriate. I was a member of one of the governing bodies of the Australian Manufacturing Workers Union; I was a fitter; I was on the governing body of the union. The coalition is saying that I should have been treated and workers should be treated the same as high-paid executives on the boards of companies. It is an absolute nonsense.

Not one union who made a submission to the inquiry on this accepted the proposition that a worker, a volunteer, on a governing body of a union was the same as some high-flying executive on the board of a company—not one. Not only didn't the unions accept that position; the employer organisations would not accept that position either. The employer organisations drew attention to the fact that they had many volunteers on their governing bodies who were not being paid and should not be subject to the same checks and balances that are on high-flying well-paid professional people on the boards of companies. It just does not make sense. It is not what should happen. But this is about the political ideology, the
extreme ideology, of the coalition, who will not even accept a bit of fairness about workers are represented.

The AIG have said they oppose this bill. They say:

The provisions of the Bill in this area will operate very unfairly on registered employer organisations and their officers, and it is essential that the Bill is amended. The Bill would impose a far more onerous regime for officers of registered organisations than what applies to directors of public companies. The regime, if enacted, would undoubtedly deter persons from standing for office in employer organisations. In practice the provisions of the Bill would seriously impede many organisations from carrying on their daily business operations.

This is the AIG, the Australian Industry Group, one of the biggest, most respected, most influential employer organisations in the country, and they say: 'This is crazy. This is not what should happen. You will stop people volunteering to come on the governing bodies of the Australian Industry Group and employer organisations.'

That is exactly the same submission we received from unions and their representatives. Unions were saying: if you start to take penalty provisions against ordinary workers—who could be cleaners in Parliament House but on the board of a governing body like United Voice, the union—then they would be subject to the same penalties as a very wealthy, professional, former executive who happens to be on the board of a company. They do not match up. It just does not make sense. That is why the Australian Industry Group is saying: 'Nonsense! This is nonsense. It should not be done.'

The Australian Privacy Foundation in their submission says:

There has been no demonstration that existing law … is inadequate, e.g. that there is serious and pervasive corruption that is not being addressed because investigators and prosecutors lack authority. Except for extremists such as Senator Abetz on the government side—those on the government side that want to destroy effective trade unionism in this country, those on the other side that want to diminish the wages and conditions of ordinary workers—no-one believes that this bill is an appropriate bill. The employers do not believe it; the employer organisations do not believe it; the trade union movement does not believe it; the ACTU does not believe it. The Australian Privacy Foundation in their analysis say that it is flawed. This is a bad bill from a bad government. That is the bottom line. It is about their ideology.

And it is not just the Australian Industry Group who oppose this. The Motor Trade Association of South Australia—I do not think you would call them some kind of communist group undermining the country—say this is not on, that you need amendments to this bill, and that the bill as it stands should be opposed. The Motor Trade Association of South Australia go through all of their problems with the bill.

This is a bad bill. The South Australian Wine Industry Association—I think Senator Edwards might be on that board or might be involved with them—criticised the alignment of directors' responsibilities. And they basically say they are a not-for-profit incorporated association and that the role of their board members cannot be directly compared to listed public companies.

So you cannot compare the work of a volunteer—a cleaner on the board of their union, a fitter on the governing body of the AMWU or an electrician on the governing body of the CEPU—with the professional people like ex-directors and ex-managing directors of
companies, who are on boards of companies who are there for a profit. One is a voluntary organisation and the other is an organisation for profit. And to try to compare them is nothing more than an attempt to destroy effective organisation in this country.

Let me tell you that without an effective trade union movement in this country workers would end up like workers in America in the retail sector, where they have to depend on tips to get a decent living wage. That is what would happen. You would see workers not be in a position, as eminent economists have said, to have some countervailing force against the employers in this country. There would be no countervailing force because you would not be able to have effective organisations, and workers' wages and conditions, penalty rates, shift allowances and annual leave loadings would disappear. That is what this mob is about. Make no bones about it: it hates the trade union movement and it hates workers getting decent rights. That is what it is about. This bill must be opposed. (Time expired)

**Senator RICE** (Victoria) (12:16): The Australian Greens oppose the Fair Work (Registered Organisations) Amendment Bill 2014 [No. 2] in its entirety. Here we are again defending Australian workers from the ideological attacks of the besieged Abbott government. We are hot on the heels of the debate this morning over the building and construction industry which, it was very pleasing to see, got rejected.

The ideological attack on workers and unions by this government is clear to see. It fits in with the union-attacking agenda of the trade union royal commission, that politically motivated witch-hunt that has been laid clear over the last week. With the royal commissioner, Dyson Heydon, having accepted an invitation to speak at a Liberal-fundraising event, the political motivation of the attacks of the Abbott government on the trade union movement and on ordinary workers is very clear.

The legislation that we are discussing today is essentially the same legislation that we were debating earlier this year and that got rejected. It got sent back. The Senate said that this legislation is unwanted and unnecessary. This bill works on a simple principle and that is, 'We'll come for the unions first so that there is no-one left to protect the workers when we come for them.' And this government is attempting to dump a mountain of red tape, unnecessary red tape, on unions to prevent them from advancing the interests of the people that they exist to protect.

From a government that claims to want to reduce red tape, the hypocrisy is appalling. Supporters of this bill claim that it puts corporations and registered organisations on an even footing, wrongly suggesting that unions and other registered organisations ought to be treated in the same way as corporations because they are fundamentally the same. This notion is completely false. It completely dismisses the clear differences between these organisations.

The government fails or refuses to understand that employee organisations do not exist for the same reason as businesses. Unions are required under the Fair Work Act and other legislation to be democratic organisations; corporations are not. Unions are required to publish their accounts and financial returns online every year; corporations are not.

If the government were serious about putting unions and corporations on an even footing they could extend the current democratic and reporting requirements demanded of unions to corporations. But, instead, the government are saying to organisations that represent Australian workers: 'We reserve the right to micromanage you in a way that we would never
dream of doing to a private company, but we'll impose the same penalties on you that we might on a publicly-listed company.

But it goes further than that. The differences go to the very heart of why these organisations exist in the first place. Businesses exist to make a profit; that is what they do and what they are judged on. And Corporations Law requires directors to act in the best interests of their shareholders and to continue to make a profit. But unions exist to advance the interests of their members and, in so doing, to help all workers.

Unions advise people of their rights and entitlements at work and ensure that those entitlements are honoured. Unions ensure that the lowest paid workers enjoy something that we and others take for granted—a decent income and a quality of life. Thanks to unions we have got penalty rates that mean that people working unsociable hours get a decent income. Unions fought for shorter working weeks. Unions are responsible for the existence of the weekend. And it is thanks to unions that workers are entitled to annual leave and penalty rates. These things were not granted to workers by benevolent corporations; unions fought for every single one, and these are the things that are under attack by this government.

This legislation, by tying unions up in red tape, will reduce their ability to continue to work for the interests of their workers in the best way possible. Workers who are on very low pay and conditions and are represented by unions need their unions to be fighting at every opportunity they have for every benefit.

Childcare workers, aged-care workers, the cleaners at Parliament House—who are obviously in the news this week—and seafarers work on very low wages and conditions and are under attack, and the unions need to stand up for the them to the best of their ability.

The continual attacks of this government, the undercutting of wages and conditions and the attacks on penalty rates basically will end up with a system like the US or even worse, where conditions and pay are so bad that a worker working not just a 40-hour week but a 50-hour week, 60-hour week, working two, three, four jobs is still struggling to actually have enough money to survive, to put food on the table and to pay for their housing. We are better than that in Australia. We pride ourselves on being the land of the fair go. And side-by-side in the land of the fair go means that a decent day's work is rewarded by a decent day's pay.

The impact on our society of workers having to survive on unfair conditions and not enough pay means that their whole lives are just based around trying to survive, trying to just scuffle together enough money to be able to put the food on the table. It leaves them no ability to contribute anything else in society, no ability to be out there supporting their kids at sporting events on the weekend, no ability to contribute to community organisations; it is just a matter of survival, a matter of just struggling and scuffling together to be able to continue living a life where they can pay the rent and put the food on the table. We are better than that. Attacking the ability of unions to fight for the rights of workers means that the very way of life of Australian society is under attack. Unions have fought for all of the conditions our workers are currently enjoying. In doing this, unions did not get a direct financial benefit. This is where unions and employer organisations are fundamentally different from profit-making companies and it makes sense that they should be treated differently.

The bill before us today is unnecessary. Current laws prevent officers of registered organisations from using their positions for their own personal benefit and those that do are
prosecuted. But rather than extend the current requirements demanded of unions to corporations, the bill allows the government to micromanage unions in a way that would be unthinkable for private companies while still imposing the same penalties on unions as apply to publicly listed companies.

The motivation behind this legislation is clear: the government hopes to tie up workers and unions in an abundant amount of red tape to stop them advancing the interests of the people that they exist to look out for. And the bill is simply another stage of the government's attack on workers' rights. Just as successive budgets have revealed the true callousness of this government, this bill reveals the government's anti-worker agenda. The government may insist that Workchoices is dead, buried and cremated but it has simply learned that such blatant attacks have real electoral consequences. There is a reason that this government is in trouble because of these real electoral consequences. Its position in the polls reflects the entire anti-worker agenda; it is not in line with what the general population wants. This government is in trouble because it refuses to listen and is putting the big end of town ahead of the interests of Australians. The Greens will always stand up for the rights of workers and so will be secure in our position of opposing this bill.

Senator LINDGREN (Queensland) (12:26): I rise to support the Fair Work (Registered Organisations) Amendment Bill (No. 2) 2014 and to support the workers of Australia. Transparency and accountability are the fundamental principles that allow the people of Australia to have faith and belief in the people or organisations that represent them. Transparency and accountability delivers integrity, peace of mind and, most importantly, good governance.

This bill will amend the Fair Work (Registered Organisations) Act 2009 to establish an independent watchdog, the Registered Organisations Commission, to monitor and regulate registered organisations with enhanced investigation and information gathering powers; strengthen the requirements for officers' disclosures of material personal interests and to change grounds for disqualification and ineligibility for office; strengthen existing financial accounting, disclosure and transparency obligations under the act by putting certain rules of obligation on the face of the act and making them enforceable as civil remedy provisions; and increase civil penalties and introduce criminal offences for serious breaches of officers' duties as well as introduce new offences in relation to the conduct of investigations under the act.

Both employer and employee organisations make decisions, invest money and resources and advocate on behalf of their members. This is similar to registered companies making the same undertakings on behalf of their shareholders. Companies are bound by a number of legislative requirements and frameworks. They are there to ensure that the process by which a company operates is within the law; is making structured sound spending or investment decisions on behalf of its shareholders; and, amongst other things, is not making decisions based purely personal gain or self-promotion. It is only a natural progression and an equitable outcome that our employer and employee organisations should be governed by the same robust governance. Those opposite will argue that tighter measures were introduced into the Fair Work Act legislation in 2012 and that the arrangement is now strong and efficient.

The front page of the newspapers across this country tell a different story, with regular, ugly news pieces about the blight of bullies, foul mouthed rogues and stand-over men within some of these organisations. The current regulations are just not working and due to that
workers and businesses alike are suffering at the hands of self-regulated ideologists. As a member of a chamber of commerce, or a member of a workplace union, I would want to know who was running my organisation, what qualifications they have, what potential conflicts of interest may pertain to them, what they are being paid and where my money is being spent. This is not unreasonable nor should it raise eyebrows. Of course the chance of union bashing or witch-hunts will arise. Desperate times for those opposite call for desperate measures.

Judith Sloan, the contributing economics editor for *The Australian*, on 1 May 2012 wrote:

> The reputational damage caused by the shenanigans at the HSU is likely to have led to a further hemorrhaging of members—this is already apparent in terms of resignations from the HSU. But the effect is likely to be more widespread. With the lack of transparency in union affairs, who can tell what other unions get up to?

The workers of Queensland deserve better than this. Sloan goes on to say:

> The alternative strategy for the union movement is to embrace choice and competition and commit to high standards of governance. By providing real benefits to members in an open and transparent manner, there may be a chance workers can be attracted to join up.

As my colleague Scott Buchholz MP said when debating the bill:

> … this bill enhances the union movement—in particular honest union members. What this bill seeks to rub out is what we see time after time in the Australian press: the word 'union' associated too many times with 'bullying', 'coercion', 'intimidation', 'thuggery', 'corruption' and 'royal commission' … The setting up of a royal commission stands to strengthen and enhance honest union membership.

In *The Australian* on 16 May 2012, Paul Howes of the AWU argued:

> … 99 per cent of our movement has nothing to fear ... from more transparency, from being more open and ensuring we act diligently.

> … If a dodgy boss rips off our workers … we hunt that boss down … and we make sure that they pay back to their workers what they deserve …

> … And if we have a dodgy trade union official who rips off those workers, we need to hunt them down too …

During a submission to the Senate regarding the bill, the ACTU said:

> The Bill is poorly conceived, badly motivated, and entirely unnecessary.

> ... It is … transparently political … in an area where there is no extant public policy problem.

Perhaps several front pages of newspapers and a royal commission would see that statement being revised at the moment. Again, I must draw the attention of the chamber and the ACTU to the current industrial affairs being played out across our nation, where a few rogues feel justified in holding the country to ransom on the back of their hardworking members’ dues. I ask: does this not warrant a sensible consensus that action must be taken?

With regard to the criminal offence provisions contained through the bill, in particular proposed sections 337AB and 337AC, the evidentiary burden will be borne by the defendant with regard to their intent or reasonableness if charged under the provisions. This singular fact is itself a dissuader for one to indulge in contrary behaviour of that very type of bullying and harassment. How dare those opposite try and say that harsher penalties on people who scam hard-earned dollars from poor, unsuspecting workers are not appropriate? Go out and tell your members that they do not count, because that is effectively what you are saying. The 18 per
The privilege that unions have of collecting money from their members to provide their members with fair representation is a myth if you are not prepared to back hard, tough laws against those delegates and leaders from the unions that seek to rort it. The workers need protection; the businesses need to employ more people; and you are available to help them here and now by supporting a bill that actually gets the bad guys. Whether they are union associated or employer associated, a bad guy is a bad guy. We make movies about it, and we all cheer when we get the bad guy. We teach our children in our homes and our schools that bad guys are just that—bad. This bill makes the bad guys pay and protects the innocent. It promotes security and encourages growth.

The Abbott government is committed to improving the Fair Work laws so that we can build a more stable, fair and prosperous future for Australia's workers, businesses and economy. The absolute need for this legislation almost goes without saying. The rorts, the racketts and the rip-offs have been in the media on almost a daily basis, and the wider community is strongly in favour of these reforms.

Until this parliament acts, Australia will not have a sufficiently robust system that ensures corruption is uncovered and eradicated before it becomes systemic—as it did in the infamous HSU case. It is simply no longer tenable to argue that the present system is adequate to deal with or discourage this kind of behaviour. Unions and employer associations play a critical role in workplace relations systems and the economy more broadly, and their members invest a great deal of trust in them. The community expectation is that these registered organisations will operate to the highest of standards. These organisations are given special legislated rights. With rights come responsibilities. We in the government believe that the majority of registered organisations do the right thing and in many cases maintain higher standards than those that are currently required.

The bill introduces legislative measures designed to see governance of registered organisations lifted to a consistently high standard across the board. A more robust compliance regime will deter wrongdoing and promote first-class governance of registered organisations. The Abbott government believes the Fair Work (Registered Organisations) Amendment Bill will provide the certainty and high standards of operation that members of registered organisations are entitled to expect. It delivers clarity to both employer and employee organisations about good governance of their charters and restores the faith of those people most at risk: the membership. I fully support the passage of this bill.
As I have addressed the specifics of this bill on three occasions so far in this place, I will not spend too much time on going over the same ground, just as the government did not spend too much time when they failed to amend this bad legislation before sending it back to the parliament. The measures in this bill have been consistently rejected by the Australian Senate and the Australian people. Let us be clear. This bill is not about improving productivity. It is not about fulfilling an election promise. It is about this government using every means at its disposal to weaken unions and, with that, weaken the Australian workers whom they represent. It is just one element of the government's agenda to decimate the power of workers and, in doing so, drive down working conditions and pay. The government wants us to believe that it is merely fulfilling a commitment made to the Australian people before the election. Of course, one glance at the government's form reveals this to be a laughable proposition, given the scant regard the Abbott government has shown for all the other firm commitments it made to the Australian people before they cast their votes in 2013.

Remember, this is the government that promised there would be no cuts to health, no cuts to education, no changes to pensions, no change to the GST and no cuts to the ABC or SBS. And we all know what has happened since then. Not only is it a nonsense that this government cares one ounce for honouring its promises, but this bill does not even do that. The actual promise that was made was that it would be the same for registered organisations as for corporations. This bill goes much, much further. Despite the promise that the bill would align the penalties for registered organisations with those for corporations, that is not what this bill would do. In fact, there are a number of areas in the bill which are inappropriate and extend beyond the provisions in the Corporations Act. For example, the maximum penalty for a 'serious contravention' of particular sections of the company act is $200,000 for an individual and $1 million for a body corporate. This is less than the amount in this bill. And, unlike the Corporations Act, the penalties in the bill will automatically increase as the value of a penalty unit increases. Not only that but the bill is very vague on what exactly constitutes a 'serious' contravention, other than to say that it is a contravention that is 'serious'. For these reasons, the bill is yet another broken promise from a government so far in trust deficit that even its own leader in Victoria has referred to Mr Abbott and his supporters as 'poisoning the well of goodwill for all other elected officials in the country'.

The bill also fundamentally fails to understand that registered organisations are not like corporations and their office holders are not akin to corporate executives. The truth is that, in many cases, it is rank-and-file members of unions that are elected as delegates to governing bodies. They are not there for a salary; they are there as members of the community who believe in supporting workers' rights. This bill would mean that many dedicated, ethical individuals make the difficult choice not to participate in their union. But, of course, that was always the plan: by threatening onerous penalties and obligations, the Abbott government would scare off many hardworking and committed individuals, making it more difficult for registered organisations to advocate on behalf of Australian workers. Of course, diminishing the power of unions to advocate on behalf of workers is part of the Liberal Party's reason for being. This bill directly seeks to deny Australians their fundamental right to representation by diminishing rank-and-file participation.

At this point, I want to be clear that Labor absolutely rejects any sort of misconduct, whether it be from union officials, business executives or even politicians. We support robust
legislative processes that will ensure appropriate punishment is levied on those who break the rules. We will continue to fight for accountability and transparency. But we will not indulge the government's vindictive agenda of attacking the pay and conditions of Australian workers on every front. The truth is that, by any objective measure, Australia's industrial relations system is working.

Recent releases from the Australian Bureau of Statistics on Australian industrial activity show that our dispute levels are at lows we have not seen in generations. Days lost to industrial activity in the year to March 2015 are the lowest they have been since recording began. Notably, the highest number of disputes was recorded under the bad old days of Work Choices under the Liberal government. And we must not forget that these are the days that this government would love to see return. In fact, let us cast our minds back to what Prime Minister Tony Abbott said of Work Choices in March 2008: The Howard government's industrial legislation, it was good for wages, it was good for jobs and it was good for workers. And let's never forget that.

No, Mr Abbott, we will not forget you said that, I can assure you.

Those opposite like to point to the HSU case to suggest that there is something inherently wrong with our industrial relations framework. They want the Australian people to believe that there is something fundamentally, systemically wrong with how unions work and how they are treated under the law. But the truth of the matter is: it is the case at HSU that shows exactly what we have been doing right in industrial relations. In the case of HSU, the Fair Work Commission collected evidence and the courts made their verdict, as they should do. Due process was followed, a decision was made and appropriate punishment was levied. The system worked exactly as it should. We have got the balance right, and the avenues to address corruption and misconduct are robust.

The truth is that the Fair Work (Registered Organisations) Act already allows for criminal proceedings being initiated where funds are stolen or are obtained by fraud. It already ensures that the Fair Work Commission can share information with the police as appropriate. It already provides for statutory civil penalties where a party knowingly or recklessly contravenes an order or direction made by the Federal Court or the Fair Work Commission under the Fair Work (Registered Organisations) Act or the Fair Work Act. Under the Fair Work Act, officers of registered organisations already have fiduciary duties similar to those for directors under the Corporations Law. The Fair Work (Registered Organisations) Act already requires officers to disclose their personal interests. The Fair Work (Registered Organisations) Act already requires officers to disclose when payments are made to related parties. And the Fair Work (Registered Organisations) Act already requires officers to exercise care and diligence, act with good faith and not improperly use their position for political advantage. So clearly this bill is not about better governance and accountability. We already have that. And, despite what those opposite would have you think, there is nothing in the bill before us today that would stop people committing fraud.

The bill was recently put under the microscope by the Senate Standing Committee for the Scrutiny of Bills. This committee reported on the bill in its Fifth report of 2015, drawing attention to a lack of detail on new offence provisions that the minister had failed to address in the explanatory memorandum to the bill—not once, not twice but three times.
Unsurprisingly, the committee noted its disappointment at the minister's absolute and ongoing failure to address these issues. Similarly, The Parliamentary Joint Committee on Human Rights reviewed the legislation and found that the new offence of concealing documents relevant to an investigation could be incompatible with the right to a fair trial and fair hearing because it imposes a reverse legal burden of proof on the defendant, limiting the defendant's right to the presumption of innocence. This is clearly a bill that will not address the problem that it seeks to confect. It is yet another attack from the Abbott government on the ability of unions to represent Australian workers.

Of course, this is not the only avenue the government has used to try to weaken the union movement. As I mentioned earlier, there have been four iterations of this malignant legislation. But it is far from an isolated example. In fact, we have seen a concerted campaign by this government using every option available to them to weaken unions. Just this morning we saw the government's bill to re-establish the repugnant Australian Building and Construction Commission. This toxic legislation will discriminate against construction workers and expose them to harsh laws that do not apply in any other industry. Then we have the most notable evidence of Mr Abbott's campaign of vengeance toward unions: the witch-hunt masquerading as a royal commission into union activity. Again, this is in the Liberals' DNA. In fact, there has not been a Liberal government for more than 40 years that has not held an inquiry of some sort into union activity.

The Abbott government's royal commission into trade unions is the most egregious use of public money for transparently political purposes that I have seen in a while. In fact, the government is spending $80 million of taxpayers' money on this charade; $25 million of this is going directly to lawyers employed to prosecute the government's case. The Attorney-General's own former employer, Minter Ellison, does particularly well out of it, getting $17 million. What a waste of scarce resources from a government that not so long ago could not stop screeching about Australia's debt and deficit problem. But that was until they doubled the deficit—but that is a whole other story of wanton waste. Not only did they set up a wasteful commission; they also extended the commission for no justifiable reason.

If we needed further evidence that the royal commission is a politically motivated sham, then it came last week with the revelation that the royal commissioner himself, Dyson Heydon AC, was also set to be the star keynote speaker at a Liberal Party fundraiser. Invites were clearly told that the income from the event would go to the state branch of the party for the next election campaign. Even in his own email pulling out of the event last week, Mr Heydon said that he would still be willing to appear at future Liberal events. Clearly, this revelation casts a shadow over Mr Heydon's impartiality and, clearly, it makes a mockery of the impartiality of the whole commission process.

The Leader of the Opposition, Mr Bill Shorten, was absolutely right when he called out this 'smoking gun of political bias'. When the government was faced with this undeniable truth last week, the response was unbelievable. The Prime Minister could not even maintain a consistent position, contradicting himself over whether the event was a fundraiser or not, giving two totally different definitions. Then, Attorney-General George Brandis went in another direction entirely, saying that it was not even a party political event at all. Mr Abbott relied on the words of Julian Burnside to bolster his argument that there is nothing to be
concerned about. He failed to recognise Mr Burnside's full comment on the matter, which was:

Heydon is an honourable man. I give him the benefit of the doubt. Maybe he is honourable enough to step down.

He further outlined his position to Fairfax newspapers:

I think an honourable person caught in that position would step aside.

Truly, you could not make this stuff up. Mr Burnside's perspective was reinforced by Monash University Professor Julian Teicher, who said:

I think the problem here is that to make the findings of this royal commission as credible as possible, Justice Heydon needs to appear—not just to be—absolutely independent.

In fact, in a similar circumstance, Mr Heydon put forward a very similar point of view when he discussed the importance of appearing to be fair in the case of British American Tobacco Australia Services v Laurie. On this matter, Mr Heydon wrote:

It is fundamental to the administration of justice that the judge be neutral.

It is for this reason that the appearance of departure from neutrality is a ground of disqualification ... because the rule is concerned with the appearance of bias, and not the actuality, it is the perception of the hypothetical observer that provides the yardstick.

Clearly, this proves that Mr Heydon's position is now untenable and reveals the royal commission for what it is—a very expensive, taxpayer-funded witch-hunt. While this is undoubtedly true, we need to be aware that the motivations behind the royal commission were not just an attack on political opponents. The reality is that whatever political pain this royal commission was intended to inflict, it betrays a wider and much more malignant agenda of driving down the pay and conditions of Australian workers. By attacking the groups that represent workers, the government is also directly attacking the power of the workers to secure fair pay and conditions.

The reality is that wage growth is at the lowest point it has been in decades. Economists will tell you that we need solid wage growth if we are to keep our economy moving. Increased wages lead to increased spending, which leads to a healthier economy. The greater the spending power of the workers, the more money flows through the economy, the more profitable are businesses and the more workers they can employ. In attacking unions, those opposite are seeking to cut this cycle and further entrench inequality. In doing so, they would encourage a trend for the financial resources of society to flow to the top.

Inequality is one of the greatest issues facing our economy. When the richest seven Australian individuals hold more wealth than more than 1½ million households in the bottom 20 per cent, something has gone seriously wrong. When senior executive pays are 100 times average weekly earnings then something needs to change. But the Abbott government's union bashing agenda will only serve to further entrench inequality and to further divide our society into the haves and the have-nots.

Recent research by the International Monetary Fund found that unions are a force for greater equality. Research undertaken by IMF economists Florence Jaumotte and Carolina Osorio Buitron found strong evidence that a decline in unionisation is directly related to the rise in incomes for the richest 10 percent of peoples. They saw that a drop in union
membership is correlated with steep increases in income at the top and a growing gap between those with wealth and the working poor. Of course, it makes perfect sense.

In many industries, it is only through banding together that workers can overcome inherent power imbalances and negotiate fair outcomes. Lower union membership reduces workers' bargaining power, which means that executives and shareholders can get higher returns if workers do not have the power to secure fair pay. This lack of bargaining power also feeds into a growing inability to influence corporate decisions, which can further entrench benefits for those at the top of the company hierarchy at the expense of workers.

The working poor are an increasing and shameful reality in this country. The minimum wage is failing to keep pace with inflation while executive salaries continue to rise. But those opposite are doing everything they can to attack Australian workers. In fact, from the time they got the keys to the ministerial wing, those opposite have done everything they can to achieve just this. They took away pay rises for childcare workers. They axed pay rises for aged care workers. They announced the sacking of 16,500 public sector workers despite promising only 12,000 job losses before the election. They brought in draconian offers for the remaining public servants which would strip rights out of enterprise bargaining agreements, cut conditions and drive pay rises to below inflation.

They have failed to negotiate a single public sector agreement, 12 months after 116 of them have expired. They goaded Holden to move offshore and lied about Toyota's reasons for pulling out of Australian by trying to blame it on workers and unions. They set out to sabotage the shipbuilding industry by breaking their election promise to build submarines in South Australia. They virtually froze investment and job creation in the renewables industry by breaking their pre-election promise that there would be no changes to the renewable energy target.

They reopened a 457 visa loophole, which the former Labor government closed up, to allow employers to hire an unlimited number of workers without scrutiny. They signed a free trade agreement with China, which allows companies with large projects to bring in foreign workforces with none of the requirements to consider local labour firsts.

They oversaw a Productivity Commission inquiry which has recommended cutting penalty rates, lowering minimum wages and expansion of individual contracts. They put forward coastal shipping legislation, which would see the wholesale foreign flagging of Australian ships and opens the door to massive foreign workforces taking over these ships. And when Australian jobs are on the line, as in the case of Caterpillar in Burnie and the *Alexander Spirit*, which was docked in Devonport, they have not lifted a finger to fight for these jobs at all.

As I have outlined, the legislation before us today is yet another example in a long list of Mr Abbott's anti-worker agenda, and I urge senators in this place to stand strong against it and vote it down.

**Senator BILYK** (Tasmania—Deputy Opposition Whip in the Senate) (12:55): First up this morning we had the bill to revive the ABCC, and now we have this bill. In addition to the Abbott government's farcical Omnibus Repeal Day, they appear to have instituted a new legislative tradition—attack the union movement day. Should this be any surprise from the sworn enemies of the trade union movement—the Liberal Party—who will do anything for their mates in big business? However, ask them to support workers, which is who the unions
represent, the working people of this country—no way will they do it. As sad as I am to say it, the National Party, who once at least pretended to represent rural Australia, now just follow blindly after their Liberal masters.

It follows a pattern of behaviour of failed political attacks against workers and the union movement from those opposite. The latest failure—the Abbott government's $80 million political witch-hunt in the form of the trade union royal commission—has spectacularly failed. It has been revealed to be the partisan exercise that Labor always knew it was. It was clear from the outset, from the terms of reference of the inquiry and the intentions of this government, that this royal commission was an exercise in politics, not justice. It has been made clearer by the fact that the commission has been going beyond its brief of exposing corruption instead of starting to pursue legitimate industrial activity.

You would think that anyone who took on the job to conduct such a blatantly political inquiry would have already shown their true colours. But the fact that royal commissioner Dyson Heydon accepted an invitation to speak at a Liberal Party fundraiser exposes this inquiry for the political exercise that it is. The invitation was very clear that it was a political fundraiser. It said that any funds raised were to go to the state Liberal Party, so there could have been no mistake regarding that. Justice Heydon should now seriously consider whether his position is tenable.

Of course, when the royal commission is concluded, those looking at its conclusions should do so through the prism of the political nature of the inquiry and the man leading it. Not just content with using the royal commission as a proxy for its attack on unions and workers, the Abbott government has also used the Productivity Commission and the parliament. The bill we are debating now is the fourth version of the government's attempts to silence the union movement by burying it in red tape. We have had one private senator's bill and three government bills in as many years trying to introduce this very regime under the guise of regulating registered organisations. But don't be fooled: this is not about good governance for registered organisations. There is no policy justification for this bill. It is a political exercise aimed at attacking the political opponents of the Abbott government and using employer organisations as collateral damage.

It is deliciously ironic that one of the bills listed for debate after this one on the red is the Omnibus Repeal Day Bill—a bill where the government goes through the farcical exercise of removing outdated provisions and correcting punctuation under the guise of reducing red tape. They come in. They make a huge song and dance about it. They are actually removing commas and full stops and putting the correct punctuation into the bill, but they make it sound like they are doing something glorious. The government love to trumpet their pretentious attempts to cut red tape for business, but when it comes to the business of being a registered organisation they go in the opposite direction, introducing onerous requirements and exorbitant penalties for the failure to meet those requirements.

Labor, in government, already strengthened disclosure requirements, accountability and transparency for registered organisations through legislative changes in 2012. At the same time, we tripled penalties for breaches of the legislation. Let me remind those opposite, as I did in my speech in February this year, of the governance and accountability provisions that are already contained in existing legislation in the Fair Work Act and the Fair Work (Registered Organisations) Act. Officers of registered organisations already have fiduciary
duties similar to those for directors of corporations. Officers are required to disclose their personal interests and when payments are being made to related parties. Officers are required to exercise care and diligence, act with good faith and not improperly use their position for political advantage. It is prohibited to use the funds of members of registered organisations in internal elections. Criminal proceedings can be initiated where funds are allegedly stolen or obtained by fraud, and the Fair Work Commission can share information with the police as appropriate.

These provisions are tougher than those that existed when the current Prime Minister was minister for workplace relations under the Howard government. To see that this bill is a blatant political exercise, we need only look at the timing of it in relation to the Royal Commission into Trade Union Governance and Corruption. The government have initiated an inquiry into the governance of, and corruption in, trade unions, yet they have introduced this bill to this place four times. Why would you spend $80 million of the taxpayers' money on a royal commission if you claim to already have the answer? That is what they do by trying to reintroduce this bill.

Of course, there is plenty of further evidence that this bill is ideological. Take, for example, the fact that the government puts so much political capital into tackling corruption and malfeasance in the trade union movement, yet in the financial services area, where corruption was vastly more widespread, this government proposed legislation that would actually water down the regime designed to protect consumers. It actually wanted to water it down. You can tell that the Abbott government has overreached with this bill when, time and time again, even its friends in business have criticised it.

There was a Senate inquiry into the second iteration of this bill, the 2013 bill, and I will remind you again what the Australian Industry Group, a registered employer organisation, said about this bill. The Ai Group submitted:

The Bill would impose a far more onerous regime for officers of registered organisations than what applies to directors of public companies. The regime, if enacted, would undoubtedly deter persons from standing for office in employer organisations. In practice the provisions of the Bill would seriously impede many organisations from carrying on their daily business operations.

Just let me repeat that last line again:

…the Bill would seriously impede many organisations from carrying on their daily business operations.

It is not that this should be a surprise to any of those sitting opposite. It is exactly what this bill is designed to achieve, so they should understand that.

There are onerous requirements in this bill that will be imposed on individuals who choose, often on a voluntary basis, to dedicate their time to a body which represents employers or employees. These requirements are akin to those that would apply to the board or CEO of a major company. We should recognise that corporations and registered organisations serve very, very different purposes. Corporations are designed to generate wealth and advance the financial interests of their shareholders. Registered organisations are established to represent the rights of their members. But this regulation goes even further, extending to every branch of every organisation, regardless of size—every branch of every organisation, regardless of size. As the Australian Council of Trade Unions has pointed out, it is like saying that the rules that apply to the board of Woolworths also apply to a management committee in each individual store. It is just bizarre.
Those who take on official roles as officials and board members in trade unions rarely, if ever, receive the sort of remuneration of board members and executives in for-profit companies. As I have said before, many of them work in a voluntary capacity and receive no remuneration at all, yet the onerous reporting requirements imposed by this bill and the penalties for not meeting those requirements are so great that there are many roles within registered organisations that will simply go unfilled because there is too much risk in taking them on.

This, as I said, is the coalition's fourth attempt to kill the union movement by regulation, because the other three were most rightly rejected by the parliament. You have to wonder why this government persists with its attack on workers and the trade union movement when every attempt is a spectacular failure.

When they introduced Work Choices in government without a mandate to do so, they faced a fierce backlash not just from the union movement but from the Australian public broadly and were voted out of government. They have released a series of failed bills aimed at attacking the rights and entitlements of Australian workers, which have rightly been rejected by the parliament. Their politically driven trade union royal commission has been exposed as the expensive political witch-hunt that it is with the commissioner's acceptance—as I said—of an invitation to a Liberal Party fundraiser being exposed. One wonders what the outcome would have been if his acceptance had not been exposed. Would he have turned up? Would he have spoken? Who is to know?

The exposure of the royal commission as a partisan political exercise has absolutely destroyed the effectiveness of this $80 million attack on the government's political rivals. That is $80 million basically down the gurgler. When it comes to workplace relations, this government is like Monty Python's black knight, continuing its attack again and again despite having each and every limb hacked off. That is what this government remind me of. They persist with their ideological attacks against workers' rights and unions, even when they are routinely rejected by the parliament and the Australian public—but I suppose they cannot help it. A bit like Pavlov's dogs, who salivated every time they heard a bell ring, this government salivate at the mere thought of attacking the union movement and, in so doing, attacking the working people of Australia who are members of those unions and reintroducing elements of Work Choices. It is in their DNA.

This bill is a solution waiting for a problem. When Labor introduced the Fair Work Act and associated bills, we reduced industrial disputation, we increased labour productivity and, through later amendments, we increased compliance for registered organisations. Labor do not support this blatant political attack on the union movement, and we will oppose this bill. This is a bad bill from an even worse government.

Senator JOHNSTON (Western Australia) (13:08): The Fair Work (Registered Organisations) Amendment Bill 2014 [No. 2] is a very important piece of legislation, one which I have to say I would have thought, given recent events in the public domain—particularly the cases of Craig Thomson and Mr Michael Williamson—the Labor Party, in representing the actual workers who subscribe union dues to these unions, would welcome. I would think that any right-minded person seeing some of the most lowly paid workers and union members in our country being just nakedly, cruelly and cold-bloodedly ripped off by the likes of Craig Thomson and Michael Williamson would welcome this legislation, would
welcome increased accountability and would welcome greater surveillance of positions of trust held by union officials.

Having cut my teeth as a young lawyer in Kalgoorlie, acting for both unions and for companies, I am left with the clear understanding that, in certain circumstances, workforces do need the representation of the union movement, the labour movement. In the 1930s in Kalgoorlie many workers suffered from silicosis, and it was the union movement that came to their assistance in dealing with that blight. But then I look at what has been happening in recent times—in the last 10 or 20 years or so. Union dues provide a very large corpus of money to be used in administration. What we have seen with respect to Mr Thomson and Mr Williamson has been a complete breakdown in fidelity and trust and a complete breakdown in loyalty to those Hospital Service Union members.

This piece of legislation establishes an independent watchdog, the commission, to monitor and regulate registered organisations with enhanced investigation and information gathering powers. It strengthens the requirements for officers to disclosure material personal interests and related voting and decision-making rights. In other words, it increases the surveillance on conflicts of interest so that wives and relatives cannot do work for the unions, as was the case with Mr Williamson. The bill strengthens existing financial accounting, disclosure and transparency obligations under the Registered Organisations Act by putting certain rule obligations on the face of the act and making them enforceable as civil remedy provisions. It also increases civil penalties and introduces criminal offences for serious breaches of officers' duties and introduces new offences in relation to the conduct of investigations under the Registered Organisations Act. The bill clearly intends to bring the obligations on union officials and those charged with the administration of union funds into the same realm as those of company directors, which I think is a very, very good thing because the trust and integrity involved in the role of such officials are very, very similar.

The government is committed to improving the fair work laws so that we can build a more stable, fair and prosperous future for workers, particularly from the perspective of transparency. Transparency as to where a union member's dues end up and how they are applied is a very important part of the way our industrial laws function. The need for this legislation really does go without saying. We have witnessed massive rorts, racketeering on an amazing scale and rip-offs that have been the subject of night after night of sensational media reporting. Clearly, any responsible government cannot sit on its hands and watch the sort of thing that has gone on—particularly exampled by Thomson and Williamson.

The charges and allegations against both of those people in their capacity as officers of the Health Services Union were, quite simply, shocking and completely unacceptable. Thomson was arrested in respect of more than 150 fraud related charges and is facing allegations that his 2007 election campaign was partly funded by siphoning union money without authorisation. Mr Williamson pleaded guilty to misusing almost $1 million of Health Service Union member funds. I pause to say that I think that we can all acknowledge that Health Service Union members—those men and women inside hospitals who do the cleaning and the menial tasks—are some of the lowest paid people in Australia today. And Mr Williamson, in a very callous and cold-blooded way simply ripped them off—just ripped them off. I find that completely and totally unacceptable. There are some who might want to say that that is not representative. We have seen charges from the royal commission, and the royal commission is
setting out a litany of this sort of abuse of power by union officials. Members of the Health Services Union are asking how these gross breaches of trust—the Thomson and Williamson sagas—can occur. The obligation on this parliament is to, firstly, respond to the fact that Mr Williamson has pleaded guilty—and I underline that. That is, he has admitted and accepted that, in a guilty way, he simply stole the money of the members of this union. He has accepted that he was and is dishonest, and that he ripped these people off. Accordingly, the government seeks to act. I think this legislation is very well balanced in seeking, as I have said, to increase the transparency to provide the transparent powers for a commissioner to investigate such matters.

The bill introduces a suite of measures designed to see governance of registered organisations lifted to a consistently high standard across the board. That is so understandable in the face of what we have witnessed and so required that the parliament and the government should be congratulated for responding in the way that it has with this legislation. A more robust compliance regime will deter wrongdoing and promote first-class governance of registered organisations. In order to improve oversight of registered organisations the bill will establish a dedicated, independent watchdog—the Registered Organisations Commission—to monitor and regulate registered organisations and to provide them with enhanced investigation and information-gathering powers. The new commission will have the necessary independence and powers to regulate registered organisations effectively, efficiently and transparently. The commission will be headed by the Registered Organisations Commissioner, who will be appointed by the minister. The commission will have stronger investigation and information-gathering powers than those that currently apply. These will be modelled on those available to the Australian Securities and Investment Commission, which will further enhance the ability of the commissioner to provide strong and efficient regulation of unions and employer associations. The commission will have the power to commence legal proceedings and to refer possible criminal offences to the DPP or law enforcement agencies.

In this legislation we are also increasing the penalties. For serious contraventions the maximum penalty will be increased to 1,200 penalty units, which is approximately $200,000—I think the units are worth $170 each—and for corporate breaches the penalties will be increased to 6,000 penalty units, which is about $1 million. I think the penalties for these sorts of breaches of trust, faith and abuse of power are very appropriate.

I want to pause to go over why the government is doing this. Of course, I need go no further than to deal with what happened with respect to Mr Craig Thomson, who was in fact a Labor Party member of this parliament. The Fair Work investigation into the Health Services Union national office identified a total of 181 contraventions of the Registered Organisations Act and the Health Services Union rules by the union officials and others. The claim against Mr Thomson included 37 alleged breaches of general duties imposed on officers of registered organisations and 25 alleged breaches of the Health Services Union rules. Mr Thomson was convicted of criminal charges in the Melbourne Magistrates’ Court, on 18 February 2014. He subsequently appealed and, to the best of my understanding, was convicted of 13 charges of theft. As outlined in a statement made by the Fair Work Commission General Manager, Ms Bernadette O’Neill, on 18 February, Mr Thomson’s criminal conviction will impact the civil proceedings, as the Registered Organisations Act provides that any corresponding civil proceedings that have been stayed will automatically be dismissed.
Let's deal with what was confronting law enforcement agencies when an investigation was carried out into the activities of Mr Thomson. On 31 January 2013 Mr Thomson was arrested by New South Wales Police in relation to allegations of fraud against the Health Services Union by Victorian police. The trial began on 2 December 2013, with Mr Thomson pleading not guilty to over 145 fraud-related charges. On 18 February 2014 Mr Rozencwajg found Mr Thomson guilty of using credit cards issued to him in his role as National Secretary of the Health Services Union between 2002 and 2007. So for five years this person apparently treated the Health Services Union as his own private banker.

Senator Cameron: Just like Bronwyn Bishop did in parliament!

Senator JOHNSTON: I am happy for Senator Cameron to defend this person.

Senator Cameron: I am not defending—

The ACTING DEPUTY PRESIDENT (Senator Williams): Order!

Senator JOHNSTON: He cannot resist interjecting, because he knows this is an absolute blot on the labour movement. The labour movement does have a lot to be proud of, but this is not one of those things. This is a disgrace.

Senator Cameron interjecting—

Senator JOHNSTON: The sooner Senator Cameron owns up to the fact that—

The ACTING DEPUTY PRESIDENT: Senator Johnston, direct your comments through the chair, please.

Senator JOHNSTON: Thank you, Acting Deputy President. The sooner Senator Cameron owns up to the fact that this legislation will stop the likes of Craig Thomson and Michael Williamson, the better off we will all be.

Senator Cameron: And Bronwyn Bishop!

The ACTING DEPUTY PRESIDENT: Senator Cameron! Order on my left!

Senator JOHNSTON: The magistrate found Mr Thomson guilty of stealing HSU funds and obtaining financial advantage by deception when he used the union's credit card to pay for escort services, cigarettes, firewood, travel expenses for his ex-wife and when he withdraw nearly $10,000 in cash from ATMs. On 25 March 2014 Mr Thomson received a sentence of 12 months imprisonment, but with nine months suspended. Mr Thomson launched an appeal and, as I have said, I think that 13 of those charges of theft were sustained upon appeal. Mr Thomson was formally expelled from the Labor Party on 4 April 2014. Bear in mind, these offences were carried out between 2002 and 2007. So more than seven years after the offences were committed, Mr Thomson was expelled from the Labor Party.

I turn to Mr Michael Williamson. On 4 October 2012, former Health Services Union national president and former national president of the Australian Labor Party, Mr Michael Williams was arrested by New South Wales Police and charged with 20 criminal offences. Mr Williamson was charged with a further 30 offences before all 50 charges were combined into four major charges. On 15 October, Mr Williamson pleaded guilty to those four charges including defrauding the Health Services Union of almost $1 million through the creation of false invoices. He was also charged with two new counts over his alleged attempts to hinder police investigations. Not only did he ultimately accept his guilt but also he accepted that he sought to avoid that guilt by hindering police investigations. This was a man who was
president of the Australian Labor Party. What a blot on the landscape for that political movement.

A full-day sentence hearing was held on 3 March 2014 in that New South Wales District Court. On 28 March 2014 Judge David Frearson of the New South Wales District Court sentenced Mr Williamson to 7½ imprisonment. He will be eligible for parole after five years. This person, who callously ripped off the workers in the Health Services Union, was the president of the Australian Labor Party.

On 4 April 2014, Mr Williamson was formally expelled from the Labor Party at a meeting of the New South Wales administrative committee. Media reported in October 2013 on a settlement of $5 between Mr Williamson and the New South Wales division. He was charged with $1 million but the settlement to the union was $5 million. Clearly, in a civil sense, the breach was even bigger than the criminal offences. This is an absolute disgrace and clearly the law was inadequate. The assistance that the legislation gave to the investigators was inadequate and we seek to remedy that problem right here and now. On 11 December, The Australian Financial Review reported that:

The NSW division of the Health Services Union is attempting to recover $2.4 million it alleges was overcharged under a secret commission arrangement involving former secretary Michael Williamson, his ex-mistress Cheryl McMillan and a former director of a supplier to the union, Alf Downing. Proceedings against Mr Williamson did not proceed due to a settlement being reached. However, proceedings against Ms McMillan and Mr Downing are continuing. On 16 October 2013 the members of that union were given the happy news—I say that sarcastically—that Mr Williamson had applied for bankruptcy. The union members received no justice whatsoever in this. Of course, Mr Williamson did not give back the money he had purloined nefariously.

We then saw what happened with respect to Ms Kathy Jackson. It was reported that she had used legal fees totalling several hundred thousand dollars to defend matters which she was unauthorised to defend and the Health Services Union is seeking some $400,000 with respect to unauthorised use of funds.

Those three examples, in my respectful opinion, mean that this legislation is necessary and that this parliament must continue a very active surveillance, as it does with company directors, as it does with people charged with the administration of moneys from membership subscriptions and from shareholders. It is all very similar. The common threats are obvious and people who seek to say this legislation is wrong and not needed are living in a dream world.

Senator BACK (Western Australia) (13:28): I rise to support the Fair Work (Registered Organisations) Amendment Bill 2014 [No. 2] and I look forward to it being unanimously supported in this chamber. In fact, we already have an indication that the Labor Party, when in government, had themselves introduced amendments contained in the Fair Work (Registered Organisations) Amendment Act 2012, demonstrating at that time that their certainly was, in the view of the Labor government at the time, a need for increased financial accountability of registered organisations, strengthened investigatory powers and increased penalties. One would think we are all singing from the same sheet of music.

Those amendments were not adequate; they did not go far enough. Indeed, they contained some clauses that were totally unnecessary and required the coalition in government to
address—for example, full financial accounting by people who really had little if anything to do with the financial accountability or financial reporting.

Secondly, there was the inadequacy of the original Labor government amendment, which I remember speaking to at the time and pointing out the fact that there were onerous demands for training, particularly in economics, accounting and accountability upon some people acting where their role would not take them to a requirement for that sort of training, and even more foolishly for people who were already professionals in that space. They were not to receive any immunity.

This bill does a number of things to improve what were the then Labor government's amendments in their Fair Work (Registered Organisations) Amendment Act 2012. They are: firstly, to strengthen the reporting and disclosure obligations to align more closely with the Corporations Act, which of course stands in good stead and which has such a critically important oversight role in the management of corporations in this country; secondly, moving the obligation from the rules of registered organisations to the face of the legislation itself; and, thirdly, the amendments that we are discussing here today, and upon which I hope there will be full unanimous support, give the new commissioner greater scope to ensure that officers are complying with their obligations and greater powers to investigate when a member makes a complaint—when a member makes a complaint—about a registered organisation. So, here we are speaking about people who are themselves members of that organisation.

There is little doubt at all that the community expects the highest levels of accountability and transparency from anybody charged with responsibility for the monies of members and the monies of shareholders and, ultimately, the confidence of the wider community—be they corporations, employer groups or registered organisations in the context of unions—in being accountable to their members. As I said, this is an area in which we would expect to see full agreement, because there would not be anybody in this place—surely!—who would not agree that there must be, in the context of the dollars which are handled and which are actually contributed by members of registered organisations, employer organisations and, indeed, corporations, the highest standard of accountability and transparency to make sure there are none of the unfortunate events that we have seen in recent years and which have been canvassed adequately this afternoon by my colleague Senator Johnston.

So, what does the bill do? The first thing is that it establishes an independent watchdog—the Registered Organisations Commission—to monitor and regulate registered organisations with enhanced investigation and information-gathering powers. As we have seen in the events of the last four or five years—as we have seen spelled out in the media, in the courts and, indeed, in this place—it has been an inability to undertake adequate investigation and to compel the provision of information that has led to the ludicrous positions that we have had.

The second thing the bill does is to strengthen the requirements on officers—disclosures of material personal interests and related voting and decision-making rights—and to change the grounds for disqualification and ineligibility for office, be that in an employer group, in a union group or in any other registered organisation. Thirdly, as one would expect, the commission's role will be to strengthen existing financial accounting, disclosure and transparency obligations under the act itself by putting into place regulations and obligations on the face of the act and making them enforceable as civil remedy provisions. And, fourthly,
it will increase those civil penalties and introduce criminal offences for serious breaches of officers' duties, as well as introduce new offences in relation to the conduct of investigations under the Registered Organisations Act. Therefore, as I said, what is necessary is a circumstance that will ensure community confidence—that we are building a stable, fair and prosperous future for Australia's workforce, for Australia's businesses and for the wider Australian economy.

Why is there a need for this legislation? Because we have seen the rorts, we have seen the rackets and we have seen the rip-offs in both employer groups and in union groups. We have seen this in the media and we have heard of it in the courts. We have actually heard about it in this place. And we know that they have been so frequent that the wider community has spoken strongly. Indeed, when the coalition first released its policy for better accountability and transparency of registered organisations in April 2012, some 15 months before the 2013 election, it received widespread public support. The Australian parliament must act. We will not have a sufficiently robust system to ensure that the sort of corruption that has been revealed in numerous and recent scandals is stopped until or unless we actually introduced this legislation.

It is no longer tenable to argue that the present system is adequate or that it is discouraging the type of behaviour about which we have heard and of which we will no doubt hear more. It is the case that union and employer associations play a critical role in workplace relations and the economy more broadly in this country. Their members, be they members of employer groups, unions or other registered organisations, invest an enormous amount of time and money and a great deal of trust in these officers. Unfortunately, we have seen too many instances on both sides where those confidences have been abused and where funds have been misappropriated and, indeed, we have seen the end result. There is a community expectation that registered organisations will operate to the highest of standards, and this legislation will ensure that that does take place.

The organisations are given special legislated rights. But with rights come responsibilities and with responsibilities come accurate management, probity and transparency, and complete and full reporting.

The government believes that the majority of registered organisations in this country do the right thing, and in most instances maintain higher standards than perhaps even those that are currently required. But our recent investigations into the Health Services Union, for example, illustrate that financial impropriety has occurred under the current governance regime for registered organisations. The charges and allegations against former member of parliament Craig Thomson and former ALP national president Michael Williamson in their capacities as officers of the HSU—and now Ms Kathy Jackson—are shocking. They are unacceptable, and the wider community wants action taken.

Senator Johnston spelt out some of those areas into which Mr Thomson, and indeed Mr Williamson found themselves. All I can do is remind those who might be attendant upon this session to reflect on the background of most of the people who pay union dues in the health services sector. Those of us who have had relations in aged-care facilities, for example, know very well the devotion of these people. We know they are not highly paid.

I recall, when matters associated with Mr Thomson were being discussed in this place, being informed of a lady of eastern European descent who had been working—and still is
working—in the health services sector. She had paid, from a fairly modest salary, her union dues over many years, and somebody had calculated that, if she had today all those union dues she had paid—which we now know were totally abused and misappropriated by Messrs Thomson and Williamson, and possibly Ms Jackson—she could have afforded to go back to her native country in eastern Europe. Her response was: 'No. If I had that money available to me today I would not go back to my original homeland. I would want to put those funds towards the education of my grandchildren.' That really resonated with me. How those two or three people could possibly have done what they did with funds of workers in low-paid jobs in the health services sector is something they themselves are going to have to come to terms with into the future.

The bill introduces a suite of legislative measures designed to see governance of registered organisations lifted to a consistently high standard across the board. We require a more robust compliance regime, which is going to deter wrongdoing and promote first-class governance of registered organisations. We are a leading world economy; surely, we should not see the sorts of abuses that we have seen unfortunately unfold in the last couple of years.

We know that Fair Work Australia took far too long with their investigations in the Health Services Union. We know that the legal proceedings that ensued should well and truly have been brought to a head much more quickly. I recall, as deputy chairman of the committee at the time, a KPMG review into Fair Work Australia's investigations into the HSU which identified shortcomings in the conduct of the investigations. Members of that union and the wider community not only want a strong regulatory regime to give them confidence in these organisations; they also want swift action taken when standards appear to be breached or have been breached. To do this, we have to have a robust regulator in place with appropriate powers and resources, together with meaningful sanctions. That is what was absent when Fair Work Australia conducted those investigations. Those of us who sat through Senate estimates hearings at that time were extremely disappointed—those from both sides of the political divide—as to the tardiness. It was clear that there was not a robust regulator in place. This is what this legislation aims to achieve.

To improve oversight of registered organisations the bill will establish a dedicated independent watchdog, the Registered Organisations Commission, to monitor and regulate organisations and provide it with enhanced investigatory and information-gathering powers. The commission will have the necessary independence and powers—and reporting obligations, incidentally—that it needs to regulate organisations. The commission will be headed by a commissioner appointed by the minister. The commission will be required to report to the Minister for Employment annually on its activities; that report will be tabled in parliament, and the commissioner will appear at Senate estimates on each occasion that the Senate requires.

The activity of the commission will be subject to the same oversight by the Commonwealth Ombudsman as Commonwealth agencies. It will ensure appropriate levels of transparency and public accountability by the commissioner himself or herself. And, as is common with statutory officeholders, the minister can give directions of a general nature to the commissioner, but they must be in writing and they are a disallowable instrument. For avoidance of any doubt, I want to make the point strongly: the minister will not have any powers to give directions as to a particular matter or an investigation.
The commission will have stronger investigatory and information-gathering powers than those that currently apply, but they will be modelled on something that already exists and those are the powers available to the Australian Securities and Investments Commission. So this will further enhance the capacity of the commissioner to provide strong, efficient regulations of employer associations and unions, with all of those reporting and accountability requirements to the people who sit in this chamber.

Under the bill, there will be appropriate sanctions against efforts to hinder or mislead investigations—something that, as we know, dragged out the course of recent events in the HSU. It will give all members of registered organisations confidence that, should they make a complaint to the commission about the organisation of which they are a member, that organisation and its officials must comply with the requirements of the investigatory process, or they will face sanctions.

Members of registered organisations can have the confidence that, under this new legislation, a person convicted of a particular offence will not be eligible to be an officer of an organisation or to stand for election to office. For the first time we are going to see those elements that members of registered organisations have been asking for actually enacted in legislation.

We know very well, contrary to the comments of some, that many of these registered organisations control assets worth millions of dollars. They are effectively dealing with cash flow and investments similar to those of large businesses. And we, quite rightly, expect in this place and in this country that large businesses are held to a very high standard of account and that those people responsible for the handling of funds and making decisions associated with the fate of members’ funds are adequately trained, are adequately competent and are required to report in a full and transparent fashion, and that is what this legislation aims to do.

It is entirely appropriate to expect a high standard of financial reporting from our registered organisations, given the trust that members place in their unions and employer associations that they will operate honestly and use the funds derived from membership fees to represent their interests rather than the sorts of interests that we have seen played out in the cases of Messrs Thomson and Williamson, and Ms Jackson.

Registered organisations must have substantial economic, legal and political influence. It is clearly inconsistent with community expectations for organisations of this type or people who are officers of those organisations to operate to lower standards than those that apply to corporations or other comparable bodies.

The officers of registered organisations under this legislation will need to disclose remuneration paid to the top five officers in the head office or their branches. They will be required to report material personal interests to their members, disclosing personal interests of officers and their relatives, and declaring any payments made to persons or entities in which that officer has declared an interest.

This will prevent officials from improperly benefiting from their role in organisations—for example, by an officer procuring goods or services to a company in which they hold some interest without disclosing that interest in an appropriate and transparent process. And we have seen all too often it played out in the courts, somewhat belatedly in many instances,
where there have been serious abuses by officials of registered organisations using their privileged position to benefit themselves and indeed those closely associated with them.

We have seen in the case of Messrs Thomson and Williamson that the existing regulations do not sufficiently protect members' interests and that there will always be less than scrupulous individuals who will seek to take advantage of the positions that they hold. And this, apart from anything else, is the compelling reason why this legislation must be passed. It is in the interests of everybody in this place, from whichever political colour or persuasion. There are of course criminal penalties to be introduced for more serious breaches, in addition to those I have outlined. I finish with the words of Justice North, who made comments last year:

The penalties are rather beneficially low … beneficial to wrong doers.

Senator LUDWIG (Queensland) (13:48): I rise to speak on the Fair Work (Registered Organisations) Amendment Bill 2014 [No. 2]. I am heartened to hear that Senator Back has such a keen interest in unions and their affairs. I did mistake him for perhaps not being a supporter of unions, but I can see now that he is a firm supporter of the union movement!

What is before us is another example of the coalition's industrial relations agenda—

A government senator interjecting—

Senator LUDWIG: Yes—its agenda. It is an agenda that appears to the community to be unclear and confused, a legislative program that simply has no direction at all. This government is lurching from a piece of legislation to a new piece of legislation. In this instance it is bringing forward its failed bill for the third time. But one thing is clear about this government: this bill is an illustration of the inordinate amount of time that this government is spending talking about and targeting organisations that represent the interests of workers and their families. Why is it doing that? You might say that Senator Back has a keen interest in unions and that is why he is talking about it. I suspect it wants to talk about anything other than the current issues that face this country.

They want to ensure that they are talking about something they are familiar with and that is union bashing. That is what they enjoy and that is what they like. That is what they feel most confident about, because they do not want to deal with the hard reality of the economy and they do not want to deal with the hard reality of marriage equality. They do not want to deal with a whole range of issues that they could be getting on with, with good governance.

Officers of trade unions work hard every day. In difficult times they simply want to get on with the job of representing working people. However, they continue to be attacked by this government.

We are all aware that this is the third time the bill has come before the Senate. The question before the Senate today in relation to this bill is not whether employer bodies and trade unions should be held more accountable to their members and the community. I think that is a given. Everybody agrees on that.

Labor's position on this matter is clear. We are committed to ensuring financial accountability of unions and employer organisations. We support appropriate and fair regulation for registered organisations. We support tough laws and tough regulations for those who break them. That is why in 2012 the Labor government, and indeed the now Leader of the Opposition, then Minister for Employment and Workplace Relations, toughened the laws
to improve financial transparency and disclosure by registered organisations to their members. As a result of that, trade unions in Australia have never been stronger, more accountable and, in terms of their accountability, have never been higher. And the power of the Fair Work Commission to investigate and prosecute for breaches has also never been more apt.

In this instance we have tripled the penalties, which means that those laws have never been tougher; however, in this bill the government have gone well beyond the pale. They have gone too far, with no proportionality.

It is a disproportionate response against the trade union movements but it is not surprising that they would do that. Unsurprisingly they have departed from even the Prime Minister's commitment to shift the industrial relations debate towards the sensible centre. This is not sensible centre. This is the extreme ideologues within the Liberal Party and the National Party that want to attack the trade union base. That is what this is all about. Let us not be confused by Senator Back's newfound love of trade unions.

But let us also remember that this is a government that has gone to great lengths to proclaim and pretend that it is reducing red tape and regulation. The government had an omnibus bill about reducing red tape and regulation. We will not find this bill in that report; however, this bill does the complete opposite. It increases red tape and duplication by establishing a new regulator. If one was not already enough, this government wants to add a new regulator while retaining the existing one. The bill establishes the Registered Organisations Commission, which has coercive powers that are defined as 'do all things necessary or convenient for its purpose'. If there was ever one reason why Labor and even those opposite should not support this bill, it is that one phrase. What this government is attempting to do is give an unfettered power to a regulator to travel across unions, employers and employees. So if they think that this is not a double-edged sword, you might want to think again about how this bill will operate should it pass.

For any member of the community, this would be a considerable expansion, far too expansive for any regulatory body to have. In comparison to the powers given to the Registered Organisations Commission, they are far greater than those for regulated companies. The government makes much in the debate about moving trade union accountability and transparency to an equivalent of corporations similar to powers that are provided under ASIC. In this instance, this bill goes way further. If this government was serious about that, why would it not give the same powers to ASIC? Why would it not give the same powers to ensure that those financial charlatans out there are also held to book as well? But, no, it is simply picking on trade unions and ought to be pinged for it, when you look at the coercive power will extend to any person who the commission believes on reasonable grounds has information or a document relevant to an investigation. It is a wide power.

Furthermore, the commissioner can require a person to provide reasonable assistance in connection with an investigation. These provisions pose serious questions about the accountability and transparency of proposed unconstrained investigations which may require any member of the union to answer questions. This is an excessive power, far in excess of what you would expect if you were legitimately trying to improve accountability and transparency on top of Labor's 2012 legislation.
Yes, everybody stands against fraud, everybody stands against maladministration but what the government has not been able to do is tie this legislation to how it will actually remedy the circumstances that it describes so well. I think those opposite take a little delight out of describing it, but this bill does not fix those problems and they have not linked those two arguments together. The Registered Organisations Commission, which this bill establishes, is completely in excess of what companies are subject to under the Corporations Act. If this government was fair dinkum, it would pass these simple laws for companies and let us see what the companies might say about that.

The most revealing proposal of what the government is trying to do with this bill is its effect on volunteers. The compliance obligation of this bill applies to every branch of every union, to every part of every registered organisation irrespective of its size. So the Australian Council of Trade Unions has stated it is like saying that the rules which apply to the board of Woolworths also apply to the management committee in each individual store. Let us reflect on that from the ACTU perspective. A good example is the Australian Industry Group, which is an employer body and a not-for-profit organisation. It has 78 democratically elected councillors that comprise its governing and review body. They are unpaid and working in their own time. But under this bill, they would be subject to the new compliance requirements which require disclosure of interests and of those of their relatives. This exceeds the requirement placed upon directors under the Corporations Act, who are only required to disclose their fellow directors.

In contrast to the Australian Industry Group Council, we have the Woolworths board of directors, with 12 people appointed by shareholders being paid in excess of $200,000 per director per year, supervising, monitoring and governing the financial interests of shareholders in excess of $6 billion. We can obviously see that there is a significant proportionality problem with this bill. As this bill chooses to regulate individuals who choose, often on a voluntary basis, to dedicate their time to an employer body or union in the same ways executives and non-executive directors of corporations, there is a clear disproportionality that is expressed in this bill. But we should not be surprised about this. This is a government that likes to bash trade unions, likes to ensure that it is talking about trade unions more than it is talking about the economy. Its obligations on officers of trade unions and employer associations is very wide and creates an undue administrative burden on many registered organisations which are less than one per cent of the financial size—

Debate interrupted.

QUESTIONS WITHOUT NOTICE
Sir Garfield Barwick Address

Senator CONROY (Victoria—Deputy Leader of the Opposition in the Senate) (14:00): My question is to the Attorney-General, Senator Brandis. I refer to the Attorney-General's statement in the Senate last Thursday that the Liberal Party function known as the Sir Garfield Barwick lecture is a public function, not a political function, and the Prime Minister's confirmation in the House on the same day that it is a Liberal Party fundraiser. Which is it?

Senator BRANDIS (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (14:00): Thank you very much for asking, Senator Conroy. I can tell you all about the Sir Garfield Barwick
address, having given the Sir Garfield Barwick address myself. The Sir Garfield Barwick address is not what I would regard as an event of a political character. The fact that the host of the Sir Garfield Barwick address is the New South Wales legal professionals branch of the Liberal Party does not make it a political function. What one should have regard to, if I may say so—

*Opposition senators interjecting—*

**The PRESIDENT:** Order on my left!

**Senator BRANDIS:** and if I may speak without being bellowed at by Senator Carr over there—is what takes place at the Sir Garfield Barwick lecture. At the Sir Garfield Barwick lecture, a barrister or retired judge gives a speech on a legal or constitutional topic. None of the Sir Garfield Barwick lectures have been of a political character—none of them. If you want to consider the sort of people who give the Sir Garfield Barwick lecture—

*Senator Conroy interjecting—*

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

**Senator BRANDIS:** the most recent one was the Hon. Murray Gleeson, the former Chief Justice of Australia. The audience of the Sir Garfield Barwick lecture is not the members of the Liberal Party but the members of the New South Wales bar. So I do not doubt for a moment that there is a Liberal Party connection to the Sir Garfield Barwick lecture—of course there is, because it is being promoted by an entity within the New South Wales division of the Liberal Party—but the audience to which it is promoted is not Liberal Party members but barristers. Lastly, the lecture, or the event, is run at cost price. No profit is made from the lecture at all. No funds are raised, and I would not describe something as a fundraiser at which no funds are raised.

**Senator CONROY** (Victoria—Deputy Leader of the Opposition in the Senate) (14:02): Mr President, I ask a supplementary question. I refer to New South Wales Liberal Party director Tony Nutt's statement that the surplus from this event would have been 'a couple of hundred dollars' and that the suggestion that the event constitutes 'a significant fundraiser' is 'ridiculous'. Does the Attorney-General agree with Mr Nutt that this event was a small fundraiser for the Liberal Party that would have raised a couple of hundred dollars?

**Senator BRANDIS** (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (14:03): No, I do not agree with that characterisation at all, as a matter of fact. I do not, because if you read Mr Nutt's statement, from which you have selectively quoted, you would see that Mr Nutt has made an inquiry of the venue provider and has established that the cost per ticket was $80 and the cost of providing the dinner was between $74 and $75 per seat. Therefore, Senator Conroy, you may think that to budget with a small surplus of $3, $4 or $5 constitutes a fundraiser; I do not. In fact, I would have thought that, if you were organising an event not designed to run at a profit but not designed to run at a loss either, you would build in a very small margin of a couple of dollars.

**Senator CONROY** (Victoria—Deputy Leader of the Opposition in the Senate) (14:04): Mr President, I ask a further supplementary question. I refer to Commissioner Heydon's statement this morning which confirms he was aware the Sir Garfield Barwick lecture was a Liberal Party function. Given that Commissioner Heydon's position is clearly untenable due
to the appearance of bias, will the Attorney-General now ask him to resign from this tainted commission?

Senator BRANDIS (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (14:04): I most certainly will not, and were I to do so I would be committing the crime of contempt under the Royal Commissions Act—and anyone who improperly sought to influence a royal commissioner would be committing the crime of contempt under the Royal Commissions Act.

You may be ignorant of this fact, Senator Conroy, but this morning the royal commissioner received a letter from Mr Peter Gordon, of Gordon Legal, acting on behalf of the Australian Council of Trade Unions. Mr Gordon said in that letter, ‘Our current intention is to seek to make our application’—that is, an application that the commissioner stand aside on the ground of apprehended bias—‘before the commission at 2 pm today’. Shortly before question time, the commissioner asked Mr Newlinds, who seeks leave to appear on behalf of the ACTU, to confirm whether he had instructions and stood the matter down till 4 pm. It would in those circumstances be extremely inappropriate to comment. (Time expired)

Building and Construction Industry

Senator JOHNSTON (Western Australia) (14:06): My question is to the Leader of the Government in the Senate and Minister for Employment, Senator Abetz. Can the minister give the Senate any examples that show the importance of having a tough cop on the beat in the building and construction industry? Is there any new evidence that the current system needs reform?

Senator ABETZ (Tasmania—Leader of the Government in the Senate, Minister Assisting the Prime Minister for the Public Service and Minister for Employment) (14:06): It seems that barely a day goes by without reports of the blatant disregard for the law shown by certain militant union officials at construction sites across Australia. In the past few days we have seen a series of unsavoury events from Adelaide to the Northern Territory and in New South Wales. On Friday, a CFMEU official was fined $12,000 for contempt of court in entering an Adelaide hospital construction site. This follows more than $500,000 worth of fines against the CFMEU and five of its officials for an earlier incident at the very same site.

Today we hear how a New South Wales secretary of the CFMEU, Brian Parker, threatened a project manager at a school building site, in the usual CFMEU style. We also hear today how the CFMEU has been fined $45,000 for attempting to coerce a Northern Territory developer into paying its employees’ union fees. Last week we also heard of Baulderstones, a company unconscionably and illegally working in cahoots with the CFMEU to demote a worker who had resigned from the union, being fined over $30,000. These are examples of this sort of ugliness, of big business getting together with big unions to deny individuals their rights. We want to stamp that out, and these are just the latest examples.

The courts have said the penalties in this area are far too low. The evidence clearly shows that we need to restore a tough cop on the beat. That is why we need to re-establish the Australian Building and Construction Commission, with an effective Building Code, and that is what the government will seek to do, despite the vote of the Senate earlier today.
Senator JOHNSTON (Western Australia) (14:08): Mr President, I ask a supplementary question. Can the minister inform the Senate of any other reasons why the current system for regulating the construction industry is in need of reform?

Senator ABETZ (Tasmania—Leader of the Government in the Senate, Minister Assisting the Prime Minister for the Public Service and Minister for Employment) (14:08): I can inform Senator Johnston and the Senate that unlawfulness in the construction industry costs jobs. Unlawful work stoppages have already delayed such vital community projects as two new children's hospitals, TAFE and university expansions, road extensions and accommodation for the long-term homeless. How many children were left waiting for a hospital bed, homeless left without a roof or students left in crowded classrooms while the CFMEU pursued its unlawful campaign to line its own pockets? How many more hospital beds, school classrooms or rooms for the long-term homeless could have been built with the taxpayer funds that were wasted whilst projects were halted by militant CFMEU thugs? How many more jobs could have been created and facilities built? It will protect workers from abuse, taxpayers from waste and the community from a system that fails them. *(Time expired)*

Senator JOHNSTON (Western Australia) (14:09): Can the minister advise the Senate whether there are any threats to the government's plan to ensure safer and fairer workplaces?

Senator ABETZ (Tasmania—Leader of the Government in the Senate, Minister Assisting the Prime Minister for the Public Service and Minister for Employment) (14:10): The Labor Party and the Greens continue to oppose reforms that would protect union members, workers and taxpayers. By their opposition, they make it very clear that they care more about their relationship with militant elements of the union movement than they do about union members, workers and taxpayers. This, quite frankly, is remarkable. Those opposite should not hold the construction industry to ransom so that they can continue to receive campaign support and millions of dollars in donations from the worst union offenders.

Senator Moore: Mr President, I rise on a point of order. I am seeking your advice on this point. I have been listening to the answer and the question very carefully, and I am just wondering whether this is getting into the realms of reflecting on the vote of the Senate that we had this morning.

The PRESIDENT: It can only be if you adversely reflect on the vote.

An opposition senator: What do you think calling us a bunch of crooks is?

The PRESIDENT: That is not the vote. There is no point of order.

Senator ABETZ: Chances are that by proxy it was, Mr President, but we will continue. On this side of the chamber, we believe that workers come before union officials and we believe that businesses should not conspire with corrupt union officials by making shonky payments. The sector needs to be cleaned up. The country clearly needs the ABCC and an effective Building Code.

Royal Commission into Trade Union Governance and Corruption

Senator WONG (South Australia—Leader of the Opposition in the Senate) (14:11): My question is to the Attorney-General, Senator Brandis. I refer the Attorney-General to the email from Mr Gregory Burton to Commissioner Heydon which has been released which forwards an email which has as its subject matter 'Liberal Party of Australia, New South Wales Division, Lawyers Branch and Legal Policy Branch', in relation of course to the Barwick
address. Can the Attorney-General advise when he or his office first became aware that Commissioner Heydon was invited to address this Liberal Party fundraiser, and when and how did the Attorney or his office become aware that the commissioner had accepted the invitation?

Senator BRANDIS (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (14:12): I became aware on Thursday morning. I instituted an inquiry. My office had become aware some months earlier and apologised on my behalf because I had already, at the time that my office received the date-claimer notice, accepted another event, which was in the diary.

Senator WONG (South Australia—Leader of the Opposition in the Senate) (14:12): Mr President, I ask a supplementary question. I again refer to the email which has been released dated 12 June 2015 clearly demonstrating that this is a Liberal Party fundraiser. Can the Attorney-General advise when he became aware of this email and the commissioner's knowledge of this email?

Senator BRANDIS (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (14:13): The first I became aware of the matter was, as I have said, on Thursday morning. I have this morning seen the emails produced by the commissioner. The one to which you are referring was 12 June—is that right?

Senator Wong: Yes.

Senator BRANDIS: I have that. I saw it for the first time a couple of hours ago.

Senator WONG (South Australia—Leader of the Opposition in the Senate) (14:13): Mr President, I ask a further supplementary question. Can the Attorney-General advise the Senate of all communications between him, his office and his department and Commissioner Heydon about the commissioner's decision to accept an invitation to speak at a Liberal Party fundraiser on 26 August 2015?

Senator BRANDIS (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (14:14): I am not aware that there were any communications from my department, but I will check. I am not aware that there were any communications from my office to the commissioner, but, as I said in answer to your earlier question, an apology was sent as a matter of routine when the save-the-date email was received earlier in the year. It is a matter of public record that, on Thursday morning, I rang the commissioner when I first became aware that he had been scheduled to give the Sir Garfield Barwick lecture. I rang him because I was concerned about that, but it was a very brief conversation because the commissioner said to me, 'You don't need to go on, because I have already this morning indicated that I will not be proceeding with the commitment.'

Taxation

Senator EDWARDS (South Australia) (14:15): My question is to the Minister representing the Treasurer, Senator Cormann. Can the minister update the Senate on the government's tax reform agenda?

Senator CORMANN (Western Australia—Minister for Finance) (14:15): I thank Senator Edwards for that very important question. The Liberal-National Party coalition are committed
to tax reform which delivers lower, simpler, fairer taxes. That is because on this side of the chamber, we understand that lower, simpler, fairer taxes help drive stronger growth, help drive stronger employment growth and, of course, help drive better opportunities for people right across Australia to get ahead. Stronger economic growth, as well as doing all of that, helps to drive stronger revenue for the government without the need to come up with new or increased taxes.

The Liberal-National Party coalition are working hard to get spending under control so that we can continue to lower the tax burden in the economy, whereas Labor, of course, are the big-spending, high-taxing party. That will be the choice that the Australian people will have in front of them at the next election: the big-spending, high-taxing party which will make it harder for the economy to grow, or, on this side, the party that are working hard to get spending under control and to bring down the tax burden. Since we got elected in September 2013, we have got rid of the carbon tax, we have got rid of the mining tax, we reduced taxes for small business and—

**Senator Conroy:** You are the highest-taxing finance minister in history.

**Senator CORMANN:** Here we have Senator Conroy interjecting about the tax burden in the economy. Let me be very explicit: the tax burden as a share of GDP today is lower than it would have been under Labor, because we got rid of all of Labor's job-destroying and investment-destroying taxes like the carbon tax and the mining tax. Labor did not take a policy to the last election and Labor does not have a policy right now to reduce income taxes, when I last looked. Unless Senator Conroy wants to tell us that the Labor Party has a policy to reduce income taxes—I see that he is now distracted. Labor is the big-spending, high-taxing party; we are the party of lower taxes. (Time expired)

**Senator EDWARDS** (South Australia) (14:17): Mr President, I ask a supplementary question. Will the minister inform the Senate what the government is doing to ensure that all businesses generating profits in Australia pay their fair share of tax consistent with our tax laws?

**Senator CORMANN** (Western Australia—Minister for Finance) (14:17): That is a very important question by Senator Edwards. While the coalition are absolutely committed to lower, simpler, fairer taxes, we are also committed to the integrity of our tax system. We are working very hard to ensure that every business in Australia generates profits in Australia and pays taxes in Australia consistent with our laws. We already have one of the toughest anti-avoidance laws in the world, but there is always room for improvement. As G20 president in 2014, the Treasurer has led the global response to multinational tax avoidance. He is getting on with measures to strengthen the integrity of the system. The government have released a draft multinational anti-avoidance law to stop multinationals from artificially avoiding a taxable presence in Australia. This is real legislative action. We plan to introduce the legislation in the spring sittings. We are also actioning the G20 and the OECD on erosion and profit-shifting recommendations, on country-by-country reporting, anti-hybrid rules, harmful tax practices, treaty abuse rules and exchange of rulings. (Time expired)

**Senator EDWARDS** (South Australia) (14:18): Mr President, I ask a further supplementary question. Will the minister inform the Senate of any alternative policies that protect the integrity of our system?
Senator CORMANN (Western Australia—Minister for Finance) (14:19): Over six years in government, Labor did virtually nothing. There was a lot of talk but not a lot of action. There were a lot of announcements but not a lot of follow-through. Here we now have on the Labor side a Senator ‘jack-in-the-box’. And I see that Senator ‘jack-in-the-box’ on the other side is again out his box and indeed has been trying to run yet another stunt in relation to—

The PRESIDENT: Minister, refer to senators on the other side by their correct title.

Senator CORMANN: Thank you, Mr President. I was not actually referring to any senator that is present in his seat. We do need to ensure that this issue is treated seriously. This is not an issue to be dealt with with one stunt after the other. This is not an issue that is to be dealt with in a jack-in-the-box way of going about things. I would like to know whether this Senator ‘jack-in-the-box’, who does not appear to be present in the chamber, actually reflects Labor Party policy. Does he actually reflect Labor Party policy or is he just talking for himself? (Time expired)

Nauru: Surveillance

Senator DI NATALE (Victoria—Leader of the Australian Greens) (14:20): My question is to the Minister representing the Minister for Immigration, Senator Cash. I refer to the recent revelations that my colleague Senator Sarah Hanson-Young was the subject of a deliberate and coordinated surveillance operation by government-contracted Wilson Security over three days during her visit to Nauru in December 2013. These details have recently been corroborated by a whistleblower from Wilson Security, who detailed the highly intrusive operation that saw the senator photographed, followed and spied upon in her hotel room. Given this evidence, Minister, will you now concede that a member of the Senate was spied upon during an official visit and will you outline the nature of the investigation the government will make into this incident, who will conduct this investigation and when this investigation will occur?

Senator CASH (Western Australia—Assistant Minister for Immigration and Border Protection and Minister Assisting the Prime Minister for Women) (14:21): I thank the Leader of the Greens for the question. In relation to the claims made by Senator Hanson-Young that she was spied upon, the claims that were made have been confirmed to be false.

Senator Di Natale: Mr President, a point of order: that is just misleading the Senate. The claims outlined in the question were made by a whistleblower not by Senator Hanson-Young.

The PRESIDENT: Order! Senator Di Natale, that was debating the issue. It is not a point of order. Minister, you have the call.

Senator CASH: As I was saying, the claims that Senator Hanson-Young was spied upon have been confirmed to be false. Senator Hanson-Young was not placed under any surveillance or security that is not usually afforded to high-profile visitors to Nauru. Wilson Security has provided written responses to the allegations and appeared before the Senate select committee and confirmed that the unauthorised monitoring was limited to watching Senator Hanson-Young's vehicle while it was parked overnight at her hotel.

Senator DI NATALE (Victoria—Leader of the Australian Greens) (14:22): Mr President, I ask a supplementary question—I do not know where to go with that, unfortunately. Given the admission of their own employees, Wilson Security, that they have been spying on
members of the Senate, will the government now exclude them from receiving future contracts or will they suffer no ramifications for this contempt of the parliament?

Senator CASH (Western Australia—Assistant Minister for Immigration and Border Protection and Minister Assisting the Prime Minister for Women) (14:23): Again, I confirm that Wilson Security provided written responses and appeared before the Senate select committee and confirmed that the unauthorised monitoring was limited to watching Senator Hanson-Young's vehicle while it was parked overnight at her hotel.

Senator DI NATALE (Victoria—Leader of the Australian Greens) (14:23): Mr President, I ask a further supplementary question. Given that there is mounting evidence of abuse, violence, criminal conduct, harm to children and members of the Australian parliament being spied on, will you now admit that operations on Nauru are lawless, out of control and that the centre must be closed?

Senator CASH (Western Australia—Assistant Minister for Immigration and Border Protection and Minister Assisting the Prime Minister for Women) (14:23): Senator Di Natale mentioned the words 'lawless' and 'out of control.' The only thing that I know that was lawless and out of control was the former government's border protection policies which were supported, Senator Di Natale, by you and the Australian Greens. If you want to talk about out of control, talk about 50,000 people coming to this country illegally by boat; talk about 1200 persons who died at sea.

It is one thing for you to come in here and show your concern for Senator Hanson-Young. It is a bit of a shame that the Greens did not come into this place and show their concern on over 1200 occasions as people were getting on boats and dying at sea. You have no concern at all for the consequences of your policies.

Migration

Senator McKENZIE (Victoria) (14:24): My question is to the Assistant Minister for Immigration and Border Protection, Senator Cash. I refer the minister to the subclass 457 visa program—much maligned by some in the Labor Party and indeed the union movement. Will the minister advise the Senate of any recent take-up in Australia's temporary skilled visa program?

Senator CASH (Western Australia—Assistant Minister for Immigration and Border Protection and Minister Assisting the Prime Minister for Women) (14:25): I think all Australians know that the union and the Labor Party have run for many, many years now a concerted campaign—and a malicious one—against foreign workers. You can imagine then Australians' disbelief when it was revealed that a number of trade unions have sponsored 457 workers to the tune of at least 41. In fact Senator Lines—

Honourable senators interjecting—

Senator CASH: Colleagues! Colleagues! Colleagues, please: let's get this on the record, so Senator Lines can respond. Senator Lines's union, United Voice, currently sponsors no less than nine subclass 457 visa workers in their offices. Of course then we have the Maritime Union of Australia—who are consistently defended by Senator Sterle in this place—great haters of overseas labour, who have sponsored a number of 457 workers.

But the hypocrisy and duplicity of Labor and the union movement does not end there. Who can forget Tony Sheldon of the TWU, who said that the use of 457 workers was a form of
slavery? Senator Conroy, Senator Sterle and Senator Gallacher: you will be very pleased to know that the TWU has also sponsored a number of 457 workers despite the fact that this is a form of slavery.

Of course, not to leave out others: the Australian Workers' Union, the Finance Sector Union and the National Tertiary Education Union have all sponsored 457 workers in the past five years—hypocrisy at its very best.

Senator McKENZIE (Victoria) (14:27): Mr President, I ask a supplementary question. Can the minister further inform the Senate of the extensive use of the 457 visa program, including some of the most commonly sponsored occupations?

Senator CASH (Western Australia—Assistant Minister for Immigration and Border Protection and Minister Assisting the Prime Minister for Women) (14:27): Senators may find it hard to believe on this side but workplace relations adviser is the most commonly sponsored occupation by the union movement. One would think that there are clearly not enough qualified workplace relations advisers in Australia in the Senate and they cannot be sponsored by the trade unions.

Hold on: we have another occupation—that of copywriter. Who can forget the most famous 457 employer—over to you, Senator Cameron; you know where this one is going? John McTernan, Julia Gillard's communications director on a 457 visa. Despite the fact that there are thousands of journalists looking for jobs in Australia, the union movement goes overseas to get workplace relations advisers and communications directors. You have to be kidding me.

Senator McKENZIE (Victoria) (14:28): Mr President, I ask a further supplementary question. It gives me great delight to ask the final supplementary question. Will the minister advise the Senate how many 457 visa holders there are in Australia; and how do these figures compare with previous governments?

Senator CASH (Western Australia—Assistant Minister for Immigration and Border Protection and Minister Assisting the Prime Minister for Women) (14:29): Statistics tell a very interesting story because, under the Abbott government, the number of primary subclass 457 visa holders in Australia as at 31 July 2015 was 101,970. That in fact represents a decrease of 7.5 per cent since the election of the Abbott government.

Senator Cameron will be very interested to know, because I am sure he would defend this, that under his government the number of 457 visa holders grew from 60,000 primary visa holders at the beginning of 2010 to approximately 110,000 in September 2013 when Labor lost office. So the next time anyone on the other side comes in to this place and says, 'There is an increase in foreign workers under this government', you are wrong!

Coal Industry

Senator WATERS (Queensland—Co-Deputy Leader of the Australian Greens) (14:30): My question is to the Attorney-General, Senator Brandis QC. I refer to the successful court action by the Mackay Conservation Group to suspend federal approval for Adani's Carmichael mega coalmine in the Galilee Basin, which you called 'vigilante litigation'. Attorney, over the weekend, you mooted rewriting our national environmental laws to stop ordinary Australians from enforcing the law when governments and mining companies ignore
it. Why are you so eager to put coalmining companies above the law? Could it be their enormous donations to your party?

Senator BRANDIS (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (14:31): Senator Waters, I am not aware that Adani donates any money to the Liberal Party, as a matter of fact. But this government is a strong supporter of coalmining—let there be no mistake about that. You, as a Queensland senator, should be ashamed of yourself for being party to attempts to destroy Queensland's most prosperous industry, the great engine of job creation in our state.

The Carmichael mine, being promoted by Adani, was a $16.5 billion project which in the initial stages would have created 2,600 jobs and across the life of the project was estimated to be worth 10,000 jobs. The fact, Senator Waters, that you are sitting there smiling and gloating at the fact that 10,000 jobs have been destroyed—10,000 jobs and livelihoods have been lost—by vigilante environmental groups determined to game the system in order to stop this important development, this important contribution to Queensland's economy, is a disgrace.

Senator Ian Macdonald interjecting—

Senator BRANDIS: Senator Macdonald, Senator Waters is a Queensland senator, but you would not know it. Senator Waters, in my view, the standing provisions in the Environment Protection and Biodiversity Conservation Act are way too widely drawn, far too widely drawn. They are a red carpet for people who want to stop development to game the system by bringing vigilante litigation, and that is why the government proposes to deal with the matter. I hope you ask me a couple of supplementary questions, Senator Waters, because I look forward to explaining to you why those provisions are too widely drawn and why they are a threat to our economic security. (Time expired)

Senator WATERS (Queensland—Co-Deputy Leader of the Australian Greens) (14:33): Mr President, I ask a supplementary question. This is not the first but is, in fact, the second time that the environment minister has ignored crucial scientific conservation advice. Both times it has been the community that has had to uphold environmental laws through the court and has won, which you have just called gaming the system. When will the government start enforcing its own laws so that the community does not have to?

Senator BRANDIS (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (14:33): Senator Waters, what we are going to do is that we are going to have laws that work properly that respect the interests of all relevant stakeholders. The provision of the EPBC Act which I have particularly in mind, Senator Waters, section 487(2), gives standing to anybody who answers this description: an individual who is an Australian citizen or an ordinary resident in Australia who at any time in the two years immediately before the relevant decision 'has engaged in a series of activities in Australia or an external territory for protection or conservation of, or research into, the environment'.

The PRESIDENT: Pause the clock.

Senator Waters: Mr President, I rise on a point of order on relevance. The Attorney is demonstrating that he can read, but he is not actually answering the question, which went to when the government will start enforcing and upholding its own laws.
The PRESIDENT: I think, Senator Waters, that at the very commencement of the Attorney-General's answer he went to the nub of your question in relation to the reformation of the law. But I will listen intently to the rest of the answer.

Senator BRANDIS: Senator Waters, the provision in subsection (2) is so widely drawn that anyone—anyone—regardless of whether they have a material or relevant interest in a project has a capacity to approach the court to seek an order to stop it. That is why I used the term 'vigilante litigation', Senator, because certain radical environmental activists—(Time expired)

Senator WATERS (Queensland—Co-Deputy Leader of the Australian Greens) (14:35): Mr President, I ask a further supplementary question. The community already faces huge barriers in trying to enforce the law when it is ignored by either vested interests or lax governments, so, as you would well know, only the most meritorious cases ever make it to court. The barriers include legal fees, strike-out orders for vexatious claims, huge potential costs orders and very restrictive grounds for review, and yet you want to go further. Are you the first ever Attorney-General who wants less law enforcement?

Senator BRANDIS (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (14:35): Let me say, Senator Waters, that I am not the first Attorney-General who wants law reform. When we see a provision in an act of this parliament that is so poorly drawn and so widely drawn that it actually encourages opportunists and vigilante litigation, then we ought to get rid of it. That is not just my view, Senator Waters. This is what Dr Lynham, the Queensland Labor Minister for Natural Resources and Mines, said: 'We're extremely disappointed that there've been delays to Adani in the Galilee Basin. You have to realise that this is a federal issue, and we've asked the federal government to sort it out as soon as possible.'

Well, we are sorting it out, Senator Waters, and we are expecting Dr Lynham's political colleagues from the Australian Labor Party here in the Senate to support us in doing the very thing that the Queensland mines minister has asked the federal government to do: to sort it out so that this provision does not constitute a permanent blockage for the capacity to develop the great coalmines of Queensland.

Northern Australia

Live Animal Exports

Senator CANAVAN (Queensland) (14:36): My question is to the Minister for Employment, Senator Abetz, representing the Minister for Agriculture. Will the minister update the Senate on the government's commitment to restoring the sustainability and the profitability of Australia's agricultural sector, particularly in northern Australia and in relation to the live animal export sector?

Senator ABETZ (Tasmania—Leader of the Government in the Senate, Minister Assisting the Prime Minister for the Public Service and Minister for Employment) (14:37): I thank Senator Canavan for his question and acknowledge his strong interest in the fortunes of northern Australian agriculture. Prior to the last election, the coalition outlined a plan to reinstate agriculture as the fifth pillar of the Australian economy and our plan to boost farm gate returns. Those were not empty words. Since coming to office we have delivered for our
nation's primary producers through the abolition of the carbon tax and through massively increased market access opportunities in the red meat sector.

The Minister for Agriculture just last week announced the finalisation of the health protocol with China, which signifies the seventh market this government has opened for live animal exports. China is an important and expanding live cattle market for Australia, with exports worth $245 million in 2014. Market access in this industry is critical—as we all witnessed the massive impact that the previous government's policy backflip had on this sector.

But we have not stopped there. We are ensuring that our high-quality produce is being delivered to markets in the most competitive way possible through free trade agreements with Korea, Japan and China. We are also facilitating production here at home with the delivery of a raft of initiatives in the agricultural competitiveness white paper which are already unleashing the productive capacity of agriculture in Australia. This is our plan in action. Beef producers in northern Australia are all experiencing record prices for livestock, and this government is dedicated to helping them to capitalise on the opportunities on offer.

Senator CANAVAN (Queensland) (14:39): Mr President, I ask a supplementary question. Will the minister inform the Senate how the government's commitment has benefited northern Australia in terms of strengthening our trade relationships with our closest neighbours?

Senator ABETZ (Tasmania—Leader of the Government in the Senate, Minister Assisting the Prime Minister for the Public Service and Minister for Employment) (14:39): We on this side of the chamber understand that our relationship with Indonesia is vital to the prosperity of northern Australia and the nation as a whole. We have a $3.8 billion trade relationship with Indonesia, and this government is committed to see that grow for one simple reason: it means more jobs. This government was left a legacy of mistrust and suspicion following the actions of those opposite while in office. However, we are repairing that relationship. In fact, since coming to office we have experienced a massive 120 per cent increase in the volume of live cattle exported to Indonesia from 2012-13 to 2013-14. What does this mean for producers in the North? According to ABARE, these increases in cattle sold for live export and the higher cattle prices have resulted in farm cash income increasing from $143,000 to $277,000 per farm. (Time expired)

Senator CANAVAN (Queensland) (14:40): Mr President, I ask a further supplementary question. Minister, I think there might still be some threats to this important trade presence.

Senator Kim Carr: Barnaby is the threat.

Senator CANAVAN: What is your view? Are there any threats to this important trade relationship?

Senator Cameron: Barnaby Joyce.

Senator ABETZ (Tasmania—Leader of the Government in the Senate, Minister Assisting the Prime Minister for the Public Service and Minister for Employment) (14:40): That is a very good question, and the Labor Party interjections tell us what the threat is—namely, the Labor Party. In fact, the biggest threat to the live export trade is the same as it was in 2011 when a senator opposite, who was then agriculture minister, implemented the ban on live cattle export to Indonesia, which destroyed the viability of Australia's northern cattle producers and dislocated our bilateral trade relationship with Indonesia.
A week ago, this former minister had the gall to criticise the government on the handling of
the live export trade with Indonesia, accusing us of talking big but being found wanting.
Incredibly, he claimed that as a former agriculture minister he understood more than most
about the issue. This was most unfortunate timing for Senator Ludwig, as the very next day
Indonesia announced plans to increase its third-quarter quota by 50,000 head. (Time expired)

Royal Commission into Trade Union Governance and Corruption

Senator Wong (South Australia—Leader of the Opposition in the Senate) (14:41): My
question is again to the Attorney-General, Senator Brandis. I again refer to the email from Mr
Greg Burton to Mr Dyson Heydon dated 12 June 2015, which includes the subject matter
'Liberal Party of Australia, New South Wales Division, Lawyers Branch and Legal Policy
Branch', forwarding an invitation to the speech Mr Heydon was to deliver. Doesn't this email
make it crystal clear that Mr Heydon was to be the headline speaker at a Liberal Party
fundraiser?

Senator Brandis (Queensland—Deputy Leader of the Government in the Senate, Vice-
President of the Executive Council, Minister for Arts and Attorney-General) (14:42): As I
said in answer to Senator Conroy, I do not regard a function at which no profit is made as a
fundraiser.

Opposition senators interjecting—

The President: Order on my left! I need to hear the answer, if no-one else does.

Senator Brandis: Counsel for the Australian Council of Trade Unions, Mr Robert
Newlinds SC, has appeared before the royal commission and has foreshadowed—as I
understand what he had to say when I was watching just before question time—that he is in
the process of ascertaining whether he has instructions to bring an application of the kind
foreshadowed by Mr Peter Gordon from Gordon Legal, who acts for the ACTU, in a letter
dated this morning and delivered to the royal commissioner this morning. That application has
been adjourned to 4 pm. It would be entirely inappropriate for me to comment on the fate of a
foreshadowed application, and I would counsel Senator Wong that it would be inappropriate
for her to do so as well.

Senator Wong (South Australia—Leader of the Opposition in the Senate) (14:44): Mr
President, I ask a supplementary question. Can the Attorney-General explain to the Senate
how it is possible for Mr Heydon to now claim he 'overlooked' the connection to the Liberal
Party in light of the plain words of this email?

Senator Brandis (Queensland—Deputy Leader of the Government in the Senate, Vice-
President of the Executive Council, Minister for Arts and Attorney-General) (14:44): I will
let Mr Heydon's words stand for themselves. But I can tell you, Senator Wong, that Mr
Heydon is a person of utterly unimpeachable personal integrity. He is one of Australia's most
eminent jurists, he is an honourable man, a punctiliously honest man, and the slurs that have
been cast upon his reputation by you and by others of your frontbench—including,
shamefully, the shadow Attorney-General—are disgraceful.

Senator Wong (South Australia—Leader of the Opposition in the Senate) (14:45): Mr
President, I ask a further supplementary question. In the light of the documentary trail
released today which shows that Mr Heydon must have known this was a Liberal Party event,
why has the government not required Mr Heydon's resignation on the basis of clear apprehended bias?

Senator BRANDIS (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (14:45): I thought you were a lawyer, Senator Wong. You should know better than that. A government does not demand the resignation of a person appointed under letters patent by the Governor-General. Were the government to do that, that would be a crime under the Royal Commissions Act—to put pressure on a royal commissioner. An application has been foreshadowed on behalf of the ACTU—not, by the way, presently a party before the proceedings—to ask the royal commissioner to stand aside on the ground of apprehended bias. Were it to be brought, and I might say that Mr Newlinds indicated before lunch that he does not yet have instructions to bring such an application, it would be dealt with by the royal commissioner in the appropriate way.

National Disability Insurance Scheme

Senator WILLIAMS (New South Wales) (14:46): My question is to the Assistant Minister for Social Services, Senator Fifield. Can the minister advise the Senate of the latest quarterly results on the operation of the National Disability Insurance Scheme?

Senator FIFIELD (Victoria—Manager of Government Business in the Senate and Assistant Minister for Social Services) (14:47): Thank you, Senator Williams, for the question. The last quarter's report for the National Disability Insurance Scheme was released today, and it contains good news. There are now 17,300 participants in the NDIS who have support plans in place, and $952 million has been committed to people with disability so that they can choose the services that are best for them. This represents 94 per cent of the bilateral agreements with the jurisdictions, which is up from 85 per cent since the last quarterly report. I can also report that the cost of average packages, excluding residents in large institutions, is $33,597. This is lower than the last quarterly average of $34,907 and remains below the expected full scheme average of $36,750, so the scheme is operating within its funding envelope. I can also advise colleagues that satisfaction levels amongst participants in the scheme are high—the experience of participants is good and the scheme is making a difference in the lives of individuals. And the good news is that those individuals are now at the centre and in control of the supports that they receive.

Senator Conroy: Thank goodness for Jenny and Bill!

Senator FIFIELD: I will take Senator Conroy's interjection, but I will change it a little, to say: isn't it good that there was bipartisan support for the NDIS, that the coalition in opposition were wholehearted supporters of the NDIS and that they are continuing this important program through, building it and giving it good stewardship through to completion?

Senator WILLIAMS (New South Wales) (14:49): Mr President, I ask a supplementary question. Can the minister inform the Senate of the progress of the early rollout of the NDIS in Western Sydney?

Senator FIFIELD (Victoria—Manager of Government Business in the Senate and Assistant Minister for Social Services) (14:49): The NDIS is about to start delivering much-needed early intervention services for about 2,000 children and young people in Western Sydney—from the start of next month. This is an agreement that was signed between the
Abbott and the Baird governments, and it is the first step for the NDIS beyond the existing trial sites. Western Sydney, as colleagues know, has a high need when it comes to early intervention services for children with disability. I want to acknowledge the advocacy of the member for Macquarie, Louise Markus; the member for Lindsay, Fiona Scott; and a senator for Western Sydney, Senator Payne, who is also a very strong and passionate advocate. The government has invested $20 million this financial year to make this a possibility and preparations are well underway. Local area coordinators are already in place and are working with families.

Senator WILLIAMS (New South Wales) (14:50): Mr President, I ask a further supplementary question. Can the minister advise the Senate of how the government is working with the states and territories to deliver the NDIS?

Senator FIFIELD (Victoria—Manager of Government Business in the Senate and Assistant Minister for Social Services) (14:50): I know colleagues will be aware that the NDIS is a major undertaking, and that at full scheme there will be about 460,000 participants. I am currently working with my state and territory counterparts to negotiate schedules of how each state and territory will transition from the existing trials to full scheme. This year's budget clearly demonstrated the government's commitment to the NDIS both now and into the future. You will recall that we announced $143 million to build a new ICT system for the full scheme and that we are committing nearly $700 million to the NDIS this year. I look forward to continuing the work with my state and territory colleagues on the agreements for full scheme, and I also want to take the opportunity to acknowledge the good work of the parliamentary NDIS oversight committee, chaired by Mr Mal Brough, which is operating on a non-partisan basis.

Royal Commission into Trade Union Governance and Corruption

Senator JACINTA COLLINS (Victoria) (14:51): My question is to the Attorney-General, Senator Brandis. Can the Attorney-General confirm that the rate for Mr Stoljar, the counsel assisting the royal commission, is in excess of standard rates of counsel and required the Attorney-General's personal sign-off?

Senator BRANDIS (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (14:52): I cannot confirm that, but I will check.

Senator JACINTA COLLINS (Victoria) (14:52): Mr President, I ask a supplementary question. Can the Attorney-General confirm that the total cost of engaging Mr Stoljar from March 2014 to December 2015 was over $3.3 million and can the minister confirm that Mr Stoljar's colleague at 8 Selborne Chambers, Mr Michael Elliot, has received well over $1.4 million to date as counsel assisting the royal commission?

Senator BRANDIS (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (14:52): No, Senator Collins, I am not aware of the aggregate fees earned by Mr Stoljar and Mr Elliot but I will take the matter on notice.

Senator JACINTA COLLINS (Victoria) (14:52): Mr President, I ask a further supplementary question. Can the Attorney-General confirm that both Mr Stoljar and Mr Elliot share chambers with Commissioner Heydon in Sydney? What involvement did Commissioner
Heydon have in selecting Mr Stoljar and Mr Elliot to assist in the royal commission and where is the balance in that? And given that the government has revealed the exorbitant cost of engaging counsel to the royal commission at least in part in estimates, will the Attorney-General now reveal the total cost to Australian taxpayers of this rort?

Senator BRANDIS (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (14:53): Senator Collins, I am sorry to disappoint you but I am not familiar with the professional address of Mr Heydon, Mr Stoljar or Mr Elliot. If it be the case the Mr Stoljar and Mr Elliot share chambers with Mr Heydon, that would not be the slightest bit unusual. It is very common.

Senator Jacinta Collins: You don't know much, do you, Attorney?

Senator BRANDIS: If you would not mind listening, Senator Collins, it is very common when royal commissioners are engaged that they appoint counsel assisting from among barristers with whom they share chambers. In relation to your question—

Senator Jacinta Collins: Who puts out invitations for the Liberal fundraisers?

Senator BRANDIS: Senator Collins, are you interested in the answer? In relation to your question about what involvement Mr Heydon had in the selection of Mr Stoljar, Mr Heydon did have a role in the selection of Mr Stoljar and Mr Elliot. If you knew anything about the way royal commissions are conducted, you would know the royal commissioner always nominates counsel assisting.

Indigenous Health

Senator REYNOLDS (Western Australia) (14:54): My question is to the Assistant Minister for Health, Senator Nash. Can the minister update the Senate on funding announced for Indigenous communities in remote Central Australia?

Senator NASH (New South Wales—Deputy Leader of The Nationals in the Senate and Assistant Minister for Health) (14:54): I thank the senator for her question. I can advise the chamber that on 29 July I was pleased to announce funding totalling $10 million over three years to the Northern Territory government to develop accommodation and provide infrastructure for regional services in Tennant Creak and in Alice Springs. This critical infrastructure will be to assist end-stage renal patients who need to relocate to continue to access treatment. I think we can all agree in this chamber that it is not good enough that Aboriginal and Torres Strait Islander peoples in remote Central Australia experience end-stage renal disease at rates 18 to 20 times higher than in the wider Australian population. Sadly, these people are on average at least 20 years younger than in other areas of Australia. This new funding will assist improved access to renal infrastructure in the remote communities of Docker River, Papunya and Mount Liebig, allowing patients to remain in their communities.

While the Northern Territory government has ongoing responsibility for the delivery of dialysis and renal services, the Commonwealth is contributing infrastructure funding to support patients to have access to the renal care they require where it is needed. The Northern Territory Minister for Housing, Bess Price, commented in her recent media release:

There is a high level of need for these services in Central Australia and this funding will provide much-needed support for patients to access appropriate housing, daily treatment and clinical support.
I echo Ms Price's statement that both levels of government have listened to the needs of the people living remotely and I am proud to be supporting better services for the bush. The new funding complements the government's $1.4 billion commitment over three years to continue the delivery of primary health care to Aboriginal and Torres Strait Islander communities.

Senator REYNOLDS (Western Australia) (14:59): Mr President, I ask a supplementary question. Can the minister also advise the Senate what else the government is doing to tackle chronic kidney disease in remote Australia?

Senator NASH (New South Wales—Deputy Leader of The Nationals in the Senate and Assistant Minister for Health) (14:57): In addition to the agreement reached with the Northern Territory government, recently I also announced funding of $9 million over three years to Purple House, to continue the delivery of dialysis services and a range of renal support activities in Alice Springs and in remote communities in Central Australia. Purple House—and I particularly acknowledge Sarah Brown—does an amazing job working with dialysis patients and the government is pleased to be able to provide this extra funding for those renal services in Central Australia. The government is also working with Purple House to finalise details of a funding agreement to provide a further $6.3 million for the development of additional renal infrastructure in remote communities and to assist renal patients to remain in these communities. This funding will not only give patients ongoing access to dialysis treatment in country; it will assist Purple House to expand its dialysis treatment to provide holistic services and Indigenous employment.

Senator REYNOLDS (Western Australia) (14:58): Mr President, I ask a further supplementary question. Can the minister inform the Senate of further initiatives the government has implemented to improve health for Indigenous Australians, specifically in the Northern Territory?

Senator NASH (New South Wales—Deputy Leader of The Nationals in the Senate and Assistant Minister for Health) (14:58): I am also pleased to advise that on my recent visit to Darwin to attend the Indigenous Health Summit the Australian government, the Northern Territory government and the Aboriginal Medical Services Alliance Northern Territory, AMSANT, re-committed to a framework agreement aimed at improving the health and wellbeing of Aboriginal and Torres Strait Islander people.

The renewed five-year agreement from 2015 to 2020 promotes shared responsibility and the need for genuine, ongoing partnerships between Aboriginal community controlled health services and both levels of government. The initiative is another example of a coalition government that is able to work constructively with states, territories and NGOs to achieve improved planning and program implementation for Indigenous communities in the Northern Territory.

This coalition government is committed to improving the health of Aboriginal and Torres Strait Islander people and to close the gap in health disparity.

**Workplace Relations**

Senator CAMERON (New South Wales) (14:59): My question is to the Minister for Employment, Senator Abetz. I refer to the industrial action being taken this week by Parliament House cleaners following this minister's decision to scrap the Commonwealth...
Cleaning Services Guidelines. Does the minister agree with the parliamentary cleaner who said:

We are low paid workers. It is harder and harder for us. The cost of living is so high on a cleaner's wage. All we want is a small pay increase, under $1.80 an hour, for the work we do.

Senator ABETZ (Tasmania—Leader of the Government in the Senate, Minister Assisting the Prime Minister for the Public Service and Minister for Employment) (15:00): Mr President, you have to admire the cheek of the Australian Labor Party to ask questions about cleaners' pay, given the record of Senator Cameron's leader in this very area!

However, can I indicate to Senator Cameron that the cleaning contract at Parliament House was never subject to the Cleaning Services Guidelines. Even if the guidelines still existed they would not have applied to this contract. The issue here is about an employer renegotiating an enterprise agreement, something that requires the agreement of their workers.

As is the case for the rest of the industry, negotiation of above-award wages in enterprise agreements is a matter for cleaning contractors and their employees, not government. A key factor in these negotiations should rightly be affordability and value for money. Undoubtedly, that is what the union and the employer will deal with.

But there is no reason to have different rules just because a cleaner is working in a certain type of government office in a certain location. The guidelines to which Senator Cameron referred applied only to some government offices. They applied in Chatswood but not in Campbelltown. They applied in Parramatta but not in Penrith. They applied in Melbourne but not in Geelong. They only ever applied to one per cent of workers in the industry.

What did these guidelines do? They required employees to be provided with information about joining a union by union officials. They had a requirement that union delegates attend all staff inductions and a requirement to schedule employee meetings with union officials. That is why the Australian Labor Party champions this bizarre intervention by government that should be determined by the umpire, namely the Fair Work Commission. *(Time expired)*

Senator CAMERON (New South Wales) (15:02): Mr President, I ask a supplementary question. I remind the minister of his previous statement on this issue on 16 July 2014, and I quote:

Is there one cleaner in Australia today who is now being paid less because of the removal of the guidelines? The answer is no.

Does the minister stand by this statement?

Senator ABETZ (Tasmania—Leader of the Government in the Senate, Minister Assisting the Prime Minister for the Public Service and Minister for Employment) (15:02): Yes.

Senator CAMERON (New South Wales) (15:02): Mr President, I ask a further supplementary question. Can the minister confirm that under this government $80 million can be spent on a biased and politicised royal commission but that Parliament House cleaners are denied a $1.80 an hour pay rise as a result of this minister scrapping the Commonwealth Cleaning Services Guidelines?

Senator ABETZ (Tasmania—Leader of the Government in the Senate, Minister Assisting the Prime Minister for the Public Service and Minister for Employment) (15:03): As I said, the Cleaning Services Guidelines have no relationship whatsoever with the dispute that is occurring currently with cleaners in Parliament House.
What the Australian people want to know is where Senator Cameron and the Australian Labor Party stand in relation to the Clean Event deals that were done whilst Mr Shorten had stewardship of the Australian Workers Union and how workers' conditions were simply signed away in exchange for money for the union. These are the matters that the Australian people want to know. That is why Senator Cameron will get up on a point of order, because he does not want to hear the facts—

The PRESIDENT: Pause the clock! Senator Cameron, do you have a point of order?

Senator Cameron: Mr President, I raise a point of order on relevance. The question was specific: you can spend $80 million on a politicised royal commission but you cannot give the cleaners a pay increase. Senator Abetz has not gone to that issue.

The PRESIDENT: Thank you, Senator Cameron. I remind the minister that he has 19 seconds in which to finish answering the question.

Senator ABETZ: It was the so-called political royal commission that exposed Mr Shorten's dastardly deeds! And that is why they call it a 'political' royal commission. That is why Mr Caesar Melhem has had to resign. That is why Mr Shorten has now changed his declaration to the electoral commission—(Time expired)

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

QUESTIONS WITHOUT NOTICE: TAKE NOTE OF ANSWERS

Answers to Questions

Senator JACINTA COLLINS (Victoria) (15:05): I move:

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

In moving this motion I would like to highlight my anticipation of the Attorney-General providing the full costs associated with the engagement of Commissioner Heydon. Whilst we know overall—at least from the information available to date—that the costs have been exorbitant, we still do not have the full picture.

Indeed, today Senator Brandis could not even tell us if he had provided a personal sign-off for higher-than-standard rates with respect to Mr Stoljar. How he could not remember that he had signed off on such a thing is beyond me, but it fits into the overall context here of the political witch-hunt that has been involved with this royal commission.

There are two factors which we should be looking at in relation to the royal commission. Firstly, this cost issue and secondly, also, the issue of impartiality. This is where, despite what might be put to Commissioner Heydon by 4 o'clock today from the parties and others, I would raise three issues. These are three pretty critical issues. They are the three issues that relate to 'three strikes and you are out'.

Let's go back to the first strike. The first strike I observed at the time—and which Laura Tingle raised in one of her columns—was the intervention by Justice Heydon in which he suggested that the opposition leader 'might' be seen as an evasive witness. How inappropriate that conduct was! He managed to skip through on that, maybe simply because it was his first indiscretion. But let's look at the other indiscretions.

The second one is—and I tire of this discussion as to whether an event was a fundraiser or not; frankly that is not the point. The point is: it was a Liberal Party function, regardless of whether any funds were made—although donations were sought—Tony Nutt, it was a Liberal
Party function. The commissioner should have had the good sense at the outset to avoid that type of partiality, but he did not—until the media started asking questions—

Senator Conroy: Then the cover-up started.

Senator JACINTA COLLINS: You are right, Senator Conroy. As we are now aware: the cover up started. But let's go to the third issue. Last week, when I first saw the suggestions about this event when I looked online at Latika Bourke's article, I found a link—a link that was taken down—a connection. I cannot recall—I am searching even now—whether it was the New South Wales Law Society or the Law Council of Australia. But, either way, the connections within the legal fraternity in New South Wales need to be carefully addressed.

This is why I raised the question: what balance is there in all of this being held within Eight Selbourne Chambers. Who is next door to whom? Who is having discussions with whom? Who is involving themselves in party events? These are all serious questions—when this Abbott government engages in the type of witch-hunts that have been involved in this royal commission.

I might have originally thought otherwise. I might have taken the same approach that Bill Shorten took, which was to present himself and leave himself open to question. Then I heard Commissioner Heydon's comments during his evidence. How could he suggest he might 'seem' a particular way or another? It was outrageous in terms of his behaviour as the commissioner. That was his first strike, and now we have had two more.

But let me close with the contrast. I thought it was more recent than this but I did a little search today because I wanted to make a contrast with the Prime Minister of Australia, Mr Abbott. The contrast I made was with something people might recall: a particular Seven Network interview of Mark Riley's. Did Mr Abbott, back in 2011, want to leave himself open to questions? No. He could not answer a single question for 24 seconds. This man who is now the Prime Minister looked ridiculous. One Liberal Party member thought he was going to hit Mark Riley. Make that comparison in your mind. (Time expired)

Senator IAN MACDONALD (Queensland) (15:10): It is not surprising why the Labor Party opposition in this chamber are doing their damnedest to try and disguise the evidence of organised criminality in the union movement.

Can I just very briefly name 10: organised crime; jihad terrorists; the CFMEU—we all know about that; the Comancheros being used as debt collectors—we all know about that; the construction company that pays Mr Shorten's election campaign director—we all know about that. We know about Mr Shorten cutting workers' conditions. We know about the CFMEU leaking details from Cbus members. We know about John Sekta's threats. We know about the police arrest of a former CFMEU official who gives evidence. We know about Bill Shorten's close friend Cesar Melhem and the Industry 2020 slush fund. We know about Cesar Melhem, Mr Shorten's very close friend, and the false invoices. And we know about the Boral construction sites in Melbourne where, it was claimed, the law was determined by the CFMEU.

Why are the Labor Party opposite running the union line? Because they are controlled by the union movement. There is perhaps nothing wrong with that—if the union movement were in any way representative of the Australian people. But the Australian Bureau of Statistics shows that only 17 per cent of employees were trade union members. I will repeat that: 17 per
cent of Australia's workers choose to be members of the trade union movement. No wonder the Labor Party involved themselves in these arrangements when in government—to make sure that governments insist on workers being members of the trade union—because, even in the public sector, only 42 per cent of employees choose to be members of the union.

But take that to the private sector: only 12 per cent of employees in the private sector choose to be members of the union. Yet the unions control the Australian Labor Party.

We all know the statistics: half the current federal ALP members and senators have had paid positions in the trade union movement. As I said, if the trade union movement were at all representative of Australian workers, you might be able to accept that, and yet 17 per cent of Australian workers choose the ALP organisation which choose every member sitting opposite here and half the ALP frontbench of the Labor Party. Of the front bench of the ALP, 22 of 43 are former union officials. Of the 26 current members on the national executive, the chief organisational body of the party, 19 are former union officials.

I say again: if the union movement were representative of Australian workers you could almost think that that was relevant. But only 17 per cent of Australian workers choose to be in the union and, in the private sector, only 12 per cent choose to be in the union.

Suddenly and, strangely, there is silence from those opposite. This is the first time I have ever made a speech where I have not been subject to bullying interjections. But today the facts are out there. Of all workers in Australia only 17 per cent of them choose to join the union movement. And yet the union movement controls the opposition and controls the alternative government. No wonder the Labor Party come in here and want to shut down a royal commission, which has exposed the criminality of the union movement. (Time expired)

Senator CAMERON (New South Wales) (15:15): The reason why no-one would want to interrupt that diatribe is that it proves the point. It proves the very point that we want to make here today—that the so-called royal commission is simply a tool of the Liberal Party of Australia and the hatred they have for trade unionists and the trade union movement. Nobody could have made it more forcefully than Senator Macdonald in what we have just heard from him. Instead of trying to defend former Justice Heydon and the witch-hunt that he now sits over the top of, he runs another attack on the trade union movement and the decent people who represent workers in this country. But we are used to that and we will hear much more of it.

The issue here is whether the royal commissioner, Dyson Heydon, is conflicted in terms of his capacity to preside impartially over this inquiry. What we have seen is a number of issues at that royal commission. The first one being the bias towards witnesses getting access to cross-examination and that not being allowed for union officials who are under attack by Dyson Heydon and the Liberal Party. One issue of bias is the very nature of how that royal commission is being undertaken. It is okay if you are a friend of the Liberal Party, you can get cross-examination, but if you are a union official then no cross-examination from your lawyers—

Senator Conroy: One special union official!

Senator CAMERON: That's right—one special union official. And we also have the proposition here that so-called Justice Heydon—I think he has long lost that title—can sit on, supposedly, an impartial basis and then make comment about the evidence of the Leader of
the Opposition. Nothing could have been more political; nothing could have been more biased. Nothing could have been a more public demonstration of why this royal commissioner is unfit to preside over this royal commission.

And then we come to the doozy. We know that Dyson Heydon has got a long family pedigree of links to the Liberal Party, going back to Sir Robert Menzies. We know that. We know that he was appointed because he is a conservative judge and will do the bidding of the Liberal Party in the attacks on the trade union movement—

Senator Smith: Mr Deputy President, I rise on a point of order. I do not think it helps Senator Cameron's argument to be pointing out the virtues of—

The DEPUTY PRESIDENT: Yes, but what is your point of order, Senator Smith?

Senator Smith: I do not think it helps Senator Cameron's case to be pointing out the virtues of Dyson Heydon—

The DEPUTY PRESIDENT: I am not sure there is anything to rule on there but, just in case there was, Senator Smith, I rule there is no point of order.

Senator Cameron: Senator Smith, I hope you do better in your contribution than in your point of order. That being as it may, there is Dyson Heydon, with long links to the Liberal Party, being appointed on a multimillion-dollar retainer to actually preside over a witch-hunt against the trade union movement. That is all it is. There is no doubt that Dyson Heydon is not an appropriate officer to be presiding over this royal commission. He is quite clearly biased and he is quite clearly partisan. There is no argument about that.

The documentary trail clearly shows that, while he was the royal commissioner, he was prepared to address a Liberal Party fundraiser. He was prepared to abandon all evidence of any impartiality to go to a Liberal Party fundraiser and address his Liberal Party peers. There is no doubt about that. This is a man who has disqualified himself because of his actions. This is a man who has got no credibility to preside over any impartial judgement of any issues. And it makes it even worse that this is the Prime Minister's royal commission, set up to attack his political opponents, the trade union movement and promote the interests of the Liberal Party.

Senator Smith (Western Australia) (15:21): Just listening to Senator Cameron's performance I could not help but reflect on Shakespeare, not that his performance had anything to do with Shakespeare. But I am reminded of that Shakespearean comedy Much Ado About Nothing. Those of us who are fans of Shakespeare will know that the comedy Much Ado About Nothing has a central theme that a great fuss is made of something which is insignificant. Except that is only partially true because what we have here are the agents of the Australian union movement in this parliament trying to create a smokescreen from the very revealing evidence of the interim findings that have been made by that royal commission.

Senator Cameron is trying to suggest that the royal commission is a tool for the Liberal Party. Far from being a tool for the Liberal Party, it is in fact, we would hope, a tool so that the ordinary, honest, hardworking workers of this country who happen to be members of the union movement can get a proper, accurate, clear insight to what it is that is actually happening inside their union movement.
I just want to reflect briefly on what the royal commission has identified so far. What is it that Labor is trying to hide from? What is it that the agents of the Australian union movement in this place on that side are trying to hide from? Would it be evidence—

Senator Conroy: Does that make you the agent of Optus?

The DEPUTY PRESIDENT: Order!

Senator SMITH: You are far from Shakespearean, Senator Conroy. Would it be evidence that the New South Wales branch of the TWU, the Transport Workers Union, sent the ALP inflated sets of membership numbers between 2005 and 2013? Would that be it, Senator Conroy? Would it be that certain officials of the AWU, the NUW, the TWU, the CFMEU and the HSU have used their union's name and their union position to raise funds for their own benefit and the benefit of like-minded associates, even by compulsory levies on their employees in breach of duties owed to new members? Would it be that the evidence has been that the superannuation fund Sievers put the interests of the CFMEU above that of its own members? Would it be that? Or would it be that a building redundancy fund, the BERT, paid to fund illegal strike action and millions of dollars in CFMEU apprenticeship training? Would it be that? The list goes on and on.

Senator Abetz: Drug and alcohol rehabilitation.

Senator SMITH: They were stealing from drug and alcohol rehabilitation. I want to make an important point. The union movement contains within it the hardworking, decent members of Australia's community. What we are talking about here is the thuggery, intimidation and abuse of that authority by union members. There was a powerful opportunity today. The Labor Party, senators on that side of the chamber, could have come into this parliament and their efforts could have been talking about the importance of reform, the urgency of reform even. They could have taken their lead from the very effective op-ed in the Australian Financial Review today by former Prime Minister John Howard highlighting how in the past oppositions have lent their energies, their arm to important reform measures.

Senator Conroy: It is remarkable how you can discover—

Senator SMITH: Importantly, Senator Conroy, you might like to read or have read to you that op-ed piece in the Australian Financial Review. It would be very revealing about what you as the deputy leader of Labor in this place can do to support reform, reform that would help, not hinder, ordinary Australian workers. The challenge is yours. This is a smokescreen on your part.

Senator O'NEILL (New South Wales) (15:26): I rise to take note of answers, particularly those of the Attorney-General today. I note in the time since I have been out in the chamber—

Senator Conroy interjecting—

Senator Abetz: Mr Deputy President, I rise on a point of order. We have witnessed Senator Conroy's non-stop sledging throughout this whole debate. Even if he does not want to extend any courtesy to my side of the place, at least he might extend it to his own colleague, Senator O'Neil.

The DEPUTY PRESIDENT: Senator Conroy has not been the only interjector in this session. I would ask all senators to do two things—that is, not to interrupt other senators speaking and to address their remarks through the chair.
Senator O'NEILL: I am always happy to be assisted by my fine colleague in the Senate, Senator Conroy. But on this occasion, in the time since question time concluded and my return to the chamber, I understand Shakespeare has been somewhat discussed. That is quite interesting because in preparing my remarks, I was thinking about one of the lessons that Shakespeare is often used to teach—that is, to consider the difference between and the similarities of appearance and reality. What we have seen here is a government making every possible effort to encourage Australians to look the other way while they hide the shame of the disgraceful internecine concoctions of relationship that are part of what is the Liberal Party at large in government.

There are a royal commissions and there are royal commissions. Australians know there is a very important royal commission that was started under Nicola Roxon's watch into institutional violence against children, a very important matter. Australians have received that royal commission with great interest and have participated in it. Compare and contrast that with this political exercise funded by the Australian taxpayer to the tune of $80 million—at least that is what we think at the moment but it is probably going to end up being more given what has been revealed about the fees today—including the fee of $1.367 million for Michael Elliott, who is assisting. That is his pay for nine months to go out into this so-called royal commission—trying to convey the appearance of being a royal commission—and find as much as they can possibly can and then bring it into the House of Representatives and use that in political questioning and political statements here in this parliament. There are royal commissions and there are royal commissions. The one into institutional violence is absolutely a real one in the tradition that Australians have come to know and respect. The other one is revealing of a disgraceful Liberal Party, who will abuse any of the advantages they have from this high office to help themselves out.

What are the Liberal links that have been revealed? While we were in question time today, there was an article filed at 2.22 this afternoon by Heath Aston, who has put on record—and I know there were questions of Mr Abbott—the Rhodes Scholarship connection: a personal relationship between Mr Abbott and his hand-picked judge to lead the trade union royal commission dates back decades. This Liberal Party, nearly all of them men, is a perfect example of the boys club and the insider conversations—the 'you look after me and I'll look after you' mentality that is a signature of this government. We have a Prime Minister, Mr Abbott, whose assistance to the Rhodes Scholarship was given by now Commissioner Heydon. Mr Abbott chose and appointed Commissioner Heydon, just as he did Bronwyn Bishop—another captain's pick, and it is coming unstuck because it was done as a favour. While this deception continues, we still have the Attorney-General of Australia standing up trying to tell the Australian people that it was not a fundraiser. Just because they did not make very much money does not mean it was not a fundraiser. It was a pretty bad fundraiser, but it was still a fundraiser, and there may well have been donations.

The reality is that, even though they deny it was a fundraiser, the Australian people are on to them. It is not a royal commission; it is a witch-hunt and a political exercise funded by the taxpayer. If it was a fundraiser, it was a fundraiser with no less than a royal commissioner standing up to speak at it. If the commissioner overlooked it, that goes to his character and to failure in his office. Certainly the Liberal Party of New South Wales are a great shame. They continue to ignore, deny and cover up whatever they can with regard to this, but they are
responsible for this terrible situation where we have a conflicted and biased commissioner who is now discredited and compromised. He should resign in the interests of the royal commission. (Time expired)

Senator WATERS (Queensland—Co-Deputy Leader of the Australian Greens) (15:32): I rise to take note of the response given to my question by the Attorney-General, Senator Brandis. I asked Senator Brandis why on earth he is contemplating silencing the community's ability to uphold the environmental laws through the courts, when his own government and ministers are prepared to ignore those laws. The Attorney made some very perplexing remarks over the weekend. As I understand it, the Attorney is in fact the first law officer of the nation. I would have thought it was his job to uphold the law. He seems now to have taken it upon himself to, instead, uphold the rights of the coal lobby and silence members of the Australian community who want our laws complied with. It is a very confusing stance taken by a man who otherwise prides himself on being a black-letter lawyer. I asked the Attorney why he was so eager to change the law to silence Australians and to promote the rights of the coal lobby ahead of the rights of the community to see their laws enforced. He, of course, did not really answer that question—it is called question time, not answer time, for a reason. I asked him when the government would start enforcing their own laws so that maybe the community would not have to do their job for them. Sadly, he did not actually respond to that question either, but what he did say was that that kind of public enforcement of our laws, our environmental laws in this particular case, was gaming the system.

Senator O'Sullivan: That is exactly what it is.

Senator WATERS: So public enforcement of the law is now gaming the system. Perhaps I am in a parallel universe here—

Senator Abetz: Hear, hear!

Senator WATERS: and I am not getting the link. I take those interjections from the charming Senator O'Sullivan and the equally charming Senator Abetz. I put to the Attorney-General: are you really the first Attorney who wants to see laws less enforced? Has there ever been an Attorney-General who has advocated for less enforcement of the law, rather than more? It is a very confusing situation for the Attorney and, indeed, for anyone trying to make sense of his position.

We know that this is the latest in a long line of attacks on dissenting voices against this government and against the environment as well. They have axed the funding for the Environmental Defenders Office. They have launched a witch-hunt going after the tax-deductible donations to environment groups. They have slashed funding to community conservation groups and, of course, they have passed a motion at their party conference to go after environmental boycotts against harmful products like palm oil. Now they have made it clear that they want coal to be above the law.

It was very interesting to hear Senator Brandis describe the laws as poorly drafted when in fact it was his government that drafted them. These are John Howard's environment laws. It worries me greatly when I see the Abbott government now wanting to weaken those already weak laws, which have presided over huge declines in species health. We have lost about 10 per cent of our mammals; in fact, 35 per cent of the world's mammalian extinctions are occurring here in Australia. We know that our environmental laws are already too weak, but
now we have the Abbott government saying, 'No, they are not weak enough—we don't want anyone to enforce our law; we'd rather just let the coalminers write their own laws and steamroll ahead,' even though the minister forgot to consider a conservation advice not once but twice. This is the second time this error has been made, and it is the second time it has taken a community group to go to court and say, 'Minister, you forgot about this key consideration again. What are you doing?'

So I welcome the fact that a community group, the Mackay Conservation Group, took that challenge. The minister admitted that he had made a fatal flaw in his decision making, and yet now we see Senator Brandis wanting to further silence the Australian community. I hope that no-one will give him truck in that regard. (Time expired)

Question agreed to.

NOTICES

Presentation

Senator O'Sullivan to move:

That the Senate notes that:

(a) it is the right of every Australian worker to be employed in an environment that is free of the threat of coercion or violence regardless of the industry in which they work;

(b) corruption, blackmail or thuggery has no place in the modern Australian workplace; and

(c) all political parties commit to protecting the rights of workers by eliminating any organisations that promote or undertake such behaviour in an Australian workplace.

Senator Wright to move:

That the Senate—

(a) notes that:

(i) 18 August is Vietnam Veterans Day, and

(ii) some of those who have served or trained in the Australian Defence Force (ADF) overseas and in Australia have experienced trauma (including abuse), health and mental health challenges in the course of their service or training;

(b) acknowledges the importance of the William Kibby VC Veterans’ Shed in Glenelg North for providing a safe space for South Australian veterans to discuss past trauma, health issues and welfare issues with peers and other veterans, and

(c) acknowledges and welcomes the ongoing work of Mr Barry Heffernan OAM in his role as Welfare Coordinator at the Vietnam Veterans’ Association in South Australia, Shed Coordinator at the William Kibby VC Veterans’ Shed and as a leader in the ongoing battle for justice for those who experienced abuse while members of the ADF.

Senator Wang to move:

That the Senate—

(a) notes that:

(i) a newly-formed Western Australian initiative ‘Alongside’ is responding to the urgent educational, counselling and coping skill needs of families (partners and children), of first responders and Australian Defence Force (ADF) current and past service members all suffering from post-traumatic stress disorder (PTSD)—these families of our protective service members implicitly sacrifice some quality of life knowing the daily risks faced by their family members,
(ii) an ABC 720 Perth interview with the organisation leader in February 2015 introduced the PTSD factors impacting Western Australia’s police families, resulting in a flood of enquiries from the broader group covered by this motion, including over 20,000 tweets, more than 100 direct enquiries, and over 800 individuals who connected via Facebook, from across Australia,

(iv) the National Coronial Information System (NCIS) Intentional Self-Harm fact sheet shows that, between 2000 and 2012, one member of our emergency service personnel committed suicide every 6 weeks, a figure which the NCIS acknowledges largely underrepresents the scale of the problem, and that true data is only inferred by the tip of this iceberg—official reports of fatalities which include 62 police officers, 22 firefighters and 26 ambulance officers,

(v) the 2010 ADF Mental Health Prevalence and Wellbeing Study reported that approximately 22 per cent (11,000) of the ADF population experienced a mental disorder in 2009-10, and around 7 per cent had co-morbid health diagnoses, with PTSD the most common, and

(vi) that children of a parent with PTSD are significantly more likely to have a mental health diagnosis due to intergenerational transmission of trauma, but accurate data on the broader impact of PTSD is elusive, with a distinct paucity of credible research on the effect from, implications of, and early to longer-term care options for, the families of PTSD first line sufferers—effectively these are people who are invisible to most of us, who are motivated to help the PTSD sufferer, and who endure a host of risks and threats to their wellbeing, without sufficient recognition or qualified support; and

(b) calls on the Government and this Parliament:

(i) to invest in a more focused yet holistic examination of the societal impact and consequences of our failure to adequately address the circumstances surrounding PTSD fallout as described in this motion, and

(ii) to seriously and urgently consider how Australia’s intellectual and physical resources can best be employed to bring about both a greater public awareness and sense of responsibility for protecting those who protect us, while investing in accredited remedial help in support of these families.

Senator Brown to move:

That the Senate—

(a) recognises that Prince of Wales Bay in Hobart was declared a Defence precinct by the previous Labor Government;

(b) notes that:

(i) the Tasmania Maritime Network, representing over 30 businesses, has an international reputation for building boats and has the skills to fit out boats, insulate them and provide communications and build modular units for significant and sophisticated vessels such as Australia’s Air Warfare Destroyers,

(ii) the network has partnered with a German firm and submitted a bid as part of the Pacific Patrol Boat Replacement Project, and

(iii) if successful, the bid would demonstrate the enormous capability of Tasmanian businesses and bring enormous social and economic benefits to Tasmania; and

(c) calls on the Minister for Defence (Mr Andrews) to:

(i) guarantee the Government’s commitment to the Tasmanian shipbuilding industry, and

(ii) confirm that the Pacific Patrol Boat Replacement Project will proceed as scheduled and be a fair and open process for all Australian yards and companies.

Senator Rhiannon to move:

That the Senate—

(a) notes that:
(i) more than 10,000 jobs are directly dependent on BlueScope Steel’s operations in Port Kembla,
(ii) over 20 per cent of young people in the Wollongong region between 15 and 24 years of age are unemployed, and many more are under employed,
(iii) the Port Kembla steel works have been the backbone of the Illawarra economy for more than 80 years, and
(iv) the ‘New Steel Deal’ proposed by the South Coast Labour Council and the Australian Workers’ Union Port Kembla, and supported by many other stakeholders in the Illawarra, includes a public procurement framework mandating at least 50 per cent of Australian made steel in all federal and state infrastructure projects; and
(b) calls on the Government to give consideration to the New Steel Deal, and to commence discussions on the future of the Port Kembla steelworks with unions, BlueScope Steel management, the New South Wales State Government and other relevant stakeholders.

**BUSINESS**

**Consideration of Legislation**

**Senator FIFIELD** (Victoria—Manager of Government Business in the Senate and Assistant Minister for Social Services) (15:36): by leave—I move:

That standing orders 120(3) and 122(1) and (2) not apply to the consideration of the Fair Work (Registered Organisations) Amendment Bill 2014 [No. 2].

Senators will recall that on 25 June 2015 the usual procedural motion that this bill may proceed without formalities was not agreed to. I understand that senators are now happy for the bill to proceed without formalities, which is the effect of the motion I have just moved.

Question agreed to.

**NOTICES**

**Postponement**

The following items of business were postponed:

General business notice of motion no. 674 standing in the names of Senators Rice and Wright for today, proposing the introduction of the Automotive Transformation Scheme Amendment (Sustainable Jobs in the Auto Component Industry) Bill 2015, postponed till 19 August 2015.

**COMMITTEES**

**Community Affairs References Committee**

**Reporting Date**

The Clerk: Notification of extension of time for a committee to report has been lodged in respect of the following:

Community Affairs References Committee—Commonwealth community service tendering processes by the Department of Social Services—extended from 19 August to 9 September 2015.

The DEPUTY PRESIDENT: I remind senators that the question may be put on any proposal at the request of any senator. Are there any such requests? There being none, I shall now proceed to the discovery of formal business.
MOTIONS

Reference to Economic References Committee

Senator McALLISTER (New South Wales) (15:38): I seek leave to amend business of the Senate notice of motion No. 1, standing in my name and in the name of Senator Edwards for today, proposing a reference to the Economics References Committee, relating to the gender retirement income gap.

Leave granted.

Senator McALLISTER: I, and also on behalf of Senator Edwards and Senator Waters, move the motion as amended:

That—

(a) the Senate notes that, although women’s increasing workforce participation has contributed significantly to Australia’s economic productivity and to women’s financial independence, significant socio-economic disparity remains between men and women, illustrated by the pay gap between men and women which sits at 18.8 per cent and the gap in superannuation at retirement is 46.6 per cent; and

(b) the gender retirement income gap be referred to the Economics References Committee for inquiry and report by the first sitting day in March 2016, with particular reference to:

(i) the impact inadequate superannuation savings has on the retirement outcomes for women,

(ii) the extent of the gender retirement income gap and causes of this gap, and its potential drivers including the gender pay gap and women’s caring responsibilities,

(iii) whether there are any structural impediments in the superannuation system [impacting on the superannuation savings gap],

(iv) the adequacy of the main sources of retirement income for women, and

(v) what measures would provide women with access to adequate and secure retirement incomes; including:

(A) assistance to employers to assist female employees’ superannuation savings,

(B) Government assistance, with reference to the success of previous schemes, and

(C) any possible reforms to current laws relating to superannuation, social security payments, paid parental leave, discrimination, or any other relevant measure.

Question agreed to.

Tasmania: Timber Industry

Senator O’SULLIVAN (Queensland—Nationals Whip in the Senate) (15:39): I, and also on behalf of Senator Colbeck and Senator Bushby, move:

That the Senate—

(a) notes:

(i) That the Tasmanian specialty timber industry accounts for over 2,000 full time equivalent jobs, thousands more part time hobbyists and contributes over $70 million a year to the state’s economy,

(ii) the support of both the Tasmanian Premier (Mr Hodgman) and the Leader of the Opposition (Mr Green) for the long term sustainability of the iconic specialty timber industry, and

(iii) That the Australian Greens and the Australian Labor Party previously supported the continued low impact harvesting of special species timber in the 2013 extension of the Tasmanian Wilderness World Heritage Area; and
(b) calls on the Australian Greens to abandon their policy backflip and work with the Tasmanian Government to protect the future of the mostly small scale businesses that produce high value products that embody the essence of Tasmania's culture and history.


The DEPUTY PRESIDENT: Leave has been granted for a minute-ish!

Senator MOORE: The Tasmanian forests agreement signed under the previous Labor government was a significant achievement that ended 30 years of conflict over Tasmania's forests. It was the culmination of significant hard work by industry, conservationists and unions, all of whom agreed to protect important areas, guarantee wood supply and work together to rebuild market confidence in the sustainability of the industry. Australia has international obligations to protect World Heritage areas and looks forward to the World Heritage Committee visit to Tasmania in October this year to discuss concerns regarding the Tasmanian World Heritage area.

Labor will continue to support the implementation of the conditions of the TFA as a future pathway for the forest industry in Tasmania. This includes providing resource security for the iconic special timbers industry under agreed terms. Labor supports this as part of a broad industry plan to achieve the outcomes intended for the TFA. Labor recognises the specialty timbers industry and acknowledges the concerns of that community. Labor has not been able to verify the figures as presented by Senator O'Sullivan, as the ABS and ABARES do not separate specialty timbers from the broader forestry industry. Labor's priority is to balance Australia's responsibility. (Time expired)


The DEPUTY PRESIDENT: Leave is granted for one minute.

Senator RICE: The Australian Greens support the protection of the high-conservation-value forests of Tasmania, particularly the areas that are included in World Heritage areas. The Australian Greens have never supported logging occurring in World Heritage areas and the Australian Greens will not support logging of forests in the World Heritage forests of Tasmania.

The DEPUTY PRESIDENT (15:46): The question is that the motion moved by Senator O'Sullivan, Senator Colbeck and Senator Bushby be agreed to.

The Senate divided. [15:46]

(Deputy President—Senator Marshall)

Ayes ....................35
Noes ....................29
Majority...............6

AYES

Back, CJ
Birmingham, SJ
Canavan, MJ
Colbeck, R
Edwards, S
Fierravanti-Wells, C
Heffernan, W
Lambie, J

Bernardi, C
Bushby, DC (teller)
Cash, MC
Day, RJ
Fawcett, DJ
Fifield, MP
Johnston, D
Lazarus, GP
Senator Nash did not vote, to compensate for the vacancy caused by the resignation of Senator Milne.

Question agreed to.

**Audio Description**

**Senator SIEWERT** (Western Australia—Australian Greens Whip) (15:48): I move:

That the Senate—

(a) notes—

(i) that audio description (AD) is a flexible and unobtrusive way of making the visual content of television accessible to people who are blind or have low vision,

(ii) that modelling undertaken by Vision Australia shows that there are approximately 350,000 people in Australia who are blind or have low vision, with this number estimated to increase to 564,000 by 2030,
(iii) that under Article 30(b) of the United Nations (UN) Convention on the Rights of Persons with Disabilities, which Australia has ratified, the Government has an obligation to ensure that people with disabilities have access to television programs,

(iv) that Part 9D of the Broadcasting Services Act 1992 includes requirements for the provision of captions on television programs in order to make them accessible to people who are deaf or hearing impaired,

(v) that, despite a successful trial of AD conducted by the Australian Broadcasting Corporation (ABC) in 2012, the ABC does not provide AD on any of its free to air television services,

(vi) That the ABC is currently conducting a government funded 15 month trial of AD on its ABC iview catch up service, but that many people who are blind or have low vision experience significant barriers to accessing ABC iview, and

(vii) That the Special Broadcasting Service, Foxtel, and the commercial free to air television networks provide no AD in Australia;

(b) expresses concern that Australians who are blind or have low vision are disadvantaged because Australia lags behind many other countries, including the United States of America, the United Kingdom, Canada, Ireland, Germany, Spain and New Zealand, which all provide varying levels of AD on television programs; and

(c) calls on the Government to amend the Broadcasting Services Act 1992 to include requirements for the provision of AD on free to air and subscription television programs by the ABC and all other networks, similar to captioning requirements.


The DEPUTY PRESIDENT: Leave is granted for one minute.

Senator FIFIELD: The Australian government is working hard to break down the barriers that people with disabilities may face in the community, including those issues that restrict and inhibit access to electronic media and communications. The government has provided funding to the ABC to undertake technical trials, of audio description, to inform its consideration on this important issue.

The ABC is currently conducting an audio-description trial on its online catch-up television service, iview. The trial commenced in April and 14 hours of audio described content is available per week. In 2012 the ABC conducted a 13-week terrestrial trial, on ABC1, of audio-description commentary. The results found that while there were significant benefits for those with vision impairment the addition of an audio-description service meant technical problems for a significant number of ABC1 viewers. Following the completion of the online iview trial, in 2016, the government will receive a report from the ABC on the outcome of the trial.

Question agreed to.

MATTERS OF PUBLIC IMPORTANCE

Marriage

The DEPUTY PRESIDENT (15:50): The President has received the following letter from Senator Moore:

Pursuant to standing order 75, I propose that the following matter of public importance be submitted to the Senate for discussion:
The Prime Minister's failure of leadership on marriage equality.

Is the proposal supported?

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

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

Senator GALLAGHER (Australian Capital Territory) (15:51): Here we are, today, the Monday after the week that was—the week that broke the figurative Liberal Party camel's back—and what a spectacle it has been since then. What we have seen is a government that prioritises political strategy over equality amongst Australians.

In my short time in this place the issue that Canberrans have written most to me about is marriage equality. I am well aware that there are a range of views in the community about marriage equality; however, there is no escaping that the strong majority of Australians support this reform and want to see it dealt with as quickly as possible. I have received letters from advocates on both sides of the debate but the overwhelming majority have been in support of this change.

I have said before that the community view has changed faster than our parliaments have been able to respond—and this is something we have seen over a number of years across all state and territory jurisdictions and indeed in the federal parliament.

So let's look back at how the week evolved. It started with a surprise announcement in the coalition party room last Tuesday, where Warren Entsch said he would launch a co-sponsored bill for introduction that would create marriage equality in Australia—a positive step, many would say. A six-hour party-room meeting was called and held, where the Leader of the Government in the House, Christopher Pyne, accused the Prime Minister of branch stacking the meeting to prevent a free vote from being supported. The Prime Minister's strategy against equality prevails; one-third of the coalition party room voted in favour of a free vote but, unfortunately, two-thirds voted to bind others against equality. Ministers and backbenchers then took up open warfare against each other in the media in the following days over the appropriateness of what had happened and also the debate over whether a referendum or a plebiscite should be held. This bickering continued over the weekend and continues into this week. It has been astonishing to see one minister on one TV channel openly arguing for one position and then turn the channel and see another minister rebuking and lecturing that minister with a different position being put forward.

Despite all this division, and through all this internal turbulence, sanity prevailed and the cross-party bill on marriage equality was introduced to the House this morning. It is sad to note, though, that this bill appears to have already met its fate on the floor of the House. So what we have seen is one full week of open warfare among coalition members. The coalition has taken its eye off the ball. The government has shown that it is more focused on itself and on preventing individuals within the cabinet or the wider party from getting their way than on what the general population, the majority of this country, are expecting from their elected representatives.
The PM, through this, has consistently shown a reluctance or a refusal to see the marriage equality debate progress in this country. We have all known for a long time Mr Abbott’s personal views around marriage equality and his staunch opposition to it. His position is disappointing. However, the Prime Minister, like all of us here, has the right to hold an opinion. The problem is that the Prime Minister, the leader of the country, refuses to see past his own personal view to let the majority view of Australians prevail. Last week’s coalition party-room meeting was an opportunity for the Prime Minister to show leadership and show that he was a leader for all Australians. By allowing the debate to be held, respectful of all members and senators views, he could have taken an inclusive approach instead of the divisive one that was allowed to leave the party room meeting that day.

The reason I speak on marriage equality so often—and I think it is one thing that can get lost as politicians argue, delay and seek to run interference—is that the marriage equality debate is all about people; it is about families that you and I know; it is about loved ones that we share meals with; it is about children who go to school with our children. I do read all the emails that come into my Parliament House account on any issue—I make sure that I do. One email that arrived on Thursday evening was titled 'Heartbroken Australian', and I would like to read a bit from Lukas's story; he shared it with a number of politicians in the parliament on Thursday night. He said:

I, like millions of other Australians, was on Tuesday eagerly awaiting the decision of the coalition party-room whether to finally and consciously settle the issue of same-sex marriage before parliament. I have been checking Twitter every few minutes, trying to cling onto hope and optimism that the leaders of our country would put aside their personal views to allow the majority of leaders in parliament to reach a consensus. And then my world came crashing down. I phoned my mother, who is an elderly lady from a non-English-speaking background. I did not think she was even aware of the same-sex marriage debate. But as soon as I said, 'The vote has not been successful,' she began to cry. Despite my parents' reservations about me coming out as gay 15 years ago, they have always loved and supported me and my partner. They have always wanted me to be happy. But being treated by the members of this parliament as a perceived threat cannot be easily borne.

I then had a look at Facebook and was immediately confronted with dozens of photos from a friend's wedding on the weekend. This was further heartbreaking and distressing. Seeing the couple's sheer joy and ability to declare their love and commitment in front of family, friends and the law was a profoundly beautiful expression for them but a reminder that I and my relationship are somehow innately not worthy. The groom and bride even made a point to approach my partner and apologise for the celebrant's inclusion of the words defining marriage as a union between a man and woman. However, I am well aware that this is a legal requirement imposed by our parliament. My partner and I are both highly educated and contributing members to Australian society. He is a doctor and I hold a master's degree. We go to work, pay our taxes, contribute to the economy, socialise with friends and enjoy good coffee. Never until this day had I felt like a second-class citizen and someone whom my country, Australia, does not want. I am left to wonder: where does that leave gay and lesbian fellow Australians?

The talk about a referendum and plebiscite cannot be seen as anything but a further attempt to delay any progress on this issue. Defining marriage as between a man and a woman was imposed by parliament without asking the people, and rightly needs to be changed by parliament. The issue has been settled in almost every western developed country. Indeed, Australia and Northern Ireland are, embarrassingly, the last English speaking countries that have not recognised same-sex marriage. I used to be in favour of a plebiscite, but now I am scared about the impact of another prolonged debate as I can only see it bringing out the worst in people. The accusations, suspicions, labels and taunts are often
unbearable—even when not front and centre of speeches by our respected leaders. Yes, LGBTI identifying people are a minority in Australia, but this issue presents a momentous opportunity for 'Team Australia' to stand up and respect and recognise the rights and dignities of all Australians. Same-sex marriage—or just 'marriage' as it is now called in most western countries—will not fundamentally change anything for opposite sex couples but it will be a life-changing affirmation and expression of love for same-sex couples who call Australia home. We are your family, friends and colleagues, and I want to stand shoulder to shoulder as equals with my heterosexual friends. I still hold out hope that love for fellow people will prevail.

That was Lukas Sigut, who is a fellow Canberran. In a very personal and touching way, it really sums up just how hurtful some of the decisions that were taken last week were for everyday Australians. I thank Lukas for sharing it, because putting the person in front of the politics often helps to explain to others just how words and positions translate to people living in Australia—particularly on this issue—and how hurtful they can be.

The MPI today relates to a failure of leadership on marriage equality. No-one was asking the Prime Minister to change his views on marriage equality; nobody expected him to. But I think a lot of people around the country thought that the Prime Minister could, and should, have allowed, navigated and promoted a way for the debate to actually occur. It is funny how there are a whole lot of decisions that do not require plebiscites or referendums that occur in this place and how there are many decisions that have far-reaching impacts on people's lives, but, all of a sudden, we come to a crossroads. The polls are very clear: almost 70 per cent of Australians support ending discrimination for people in same-sex relationships.

The Prime Minister last week had an excellent opportunity to stand up and show that he governs for all Australians, even if he does not agree and does not have to personally vote in a way that would end discrimination against same-sex couples. He failed to meet that test. I think that sums up, really, the Prime Minister and the government we have—they are out of touch, are arrogant and will do anything to stop losing a debate they do not want to lose.

**Senator FAWCETT** (South Australia—Deputy Government Whip in the Senate) (16:01): I also rise to speak on this matter of public importance. I notice that the focus of the MPI is on leadership. I think it is important to understand what good leadership is about. At its heart, good leadership is about integrity. One of the things that I think this Prime Minister has demonstrated in this issue is that he has maintained the integrity of the position he took to the Australian people prior to the last election. In fact, he came out and made a very specific statement prior to the last election that, were this issue to be raised during the life of this parliament, he would bring it to the coalition party room to be dealt with in the normal manner. That is exactly what he has done. If there is one thing that you look for in a leader—I speak as someone who has served in the military for a couple of decades—it is integrity and consistency. That is what the Prime Minister has shown here.

The senator opposite was talking about things that are important and about the community asking us to deal with things that are important. I go to a number of opinion polls that have been conducted by various polling groups around the country. They clearly show that the issue of same-sex marriage is not a first-order issue for the vast majority of Australians. They are concerned to have a government that will deal with the economy, the creation of jobs and opportunity, and national security—whether that be securing our borders or dealing with the foreign fighter threat, dealing with the terrorist threat and countering violent extremism. They are concerned about things like the environment and having emissions targets in place that are
effective and also will not cripple the economy by causing disincentives to people investing and employing—and, in fact, things that destroy jobs and shift manufacturing and other things that create emissions offshore in places where there will be much worse outcomes. In this Prime Minister I see leadership both in terms of this issue—in being consistent and maintaining faith with his promise to the Australian people—and also in terms of providing very clear direction and leadership and, most importantly, achieving outcomes with the things that the Australian people have consistently rated as the top priorities that they want the government to be focusing on.

The senator opposite complained that the Prime Minister had not been inclusive. The very fact that he had promised to take this issue to the coalition party room, maintained faith with that promise and included those people in what was a very lengthy but robust and respectful debate indicates that he was prepared to be inclusive of all the people whom he had said, in this first step, he would engage with in that process. What is important here is that he listened to that—as any good leader should. He is often criticised for making decisions without adequate consultation. Now that he has put in place a process whereby he has consulted and listened to the members of the coalition party room—which is exactly what he promised he would do—he is now being criticised for listening and not taking decisions off his own bat. As a result of that listening, he has indicated that he will include not only the coalition party room but the broader Australian society.

Going down the path of having a plebiscite means that people will have their say. It is instructive and important, I think, to look at what a plebiscite means. If you go to the commentary that the Australian Parliamentary Education Office have on their website, they call it an 'advisory referendum' as an alternative name to a plebiscite because it does not change the Constitution. There have only been three previously. Importantly, the PEO identified that there are no specific rules around a plebiscite. In fact, in the act that the government puts in place, it will set the rules for the plebiscite. It is important that, when those rules are set, we do have a plebiscite that is compulsory and is also one that will be binding. It being compulsory is important because that means we will avoid the situation that occurred in Ireland, where we saw a massive investment of funding from an individual in America to target and influence an active group within the Irish society so that they became the majority of those who did turn out to vote, even though the actual turnout was only around half the society in Ireland. If we are going to get a true reflection of the views of the Australian people, then that does need to be a process that all Australians are involved with.

The binding side of it is also important. The Prime Minister indicated in a couple of the media interviews he has done recently that he would be looking for a process where the parliament would be bound by the outcome of that plebiscite. That is important, because this parliament has decided. There have been several votes on the issue of same-sex marriage, and they have been defeated. But those who are actively pursuing this have not accepted that and keep bringing back more proposals. If the people speak with a voice to say that they support it, it should be binding; it should go through. But if they speak with a voice that says it is not supported, then, equally, the parliament should listen, and that should be the end of the story. There should be no more bills coming through the parliament seeking to overturn a binding plebiscite that the people of Australia have put forward.
The leadership this Prime Minister has shown is consistent. It has kept faith with what he promised to the Australian people before the election, not only on this issue but, most importantly, on that list of issues that people have consistently identified in polling as being important to them, such as the economy. Growth of the Australian economy is equally as good as, if not better than, that in most developed countries at the moment. The rate of jobs growth in the last measured period is 10 times greater than it was for the same period under the previous government. Australia is generating more jobs and is well on track to achieving the one million jobs in five years that the Prime Minister promised prior to the last election. I will note that the one exception to that is my home state of South Australia, where we are in dire circumstances because of the consistent decisions in nearly 14 years of a Labor government that have destroyed the environment that gives employers and businesses confidence to invest and grow and employ.

The Prime Minister has met the commitments we made prior to the election to restore security to Australia's borders, despite the last government, which opened the borders, saw over 1,000 people drown, saw 50,000 people come here and, importantly, went from having no children in detention when it came to power to having over 1,900 in detention in July 2013. This government, under the leadership of the Prime Minister, has stopped the boats coming and, importantly, has also stopped people drowning and reduced the number of children in detention to under 120 on the last figures I saw. That is a significant outcome, delivered through the leadership of this Prime Minister from both a national security and a humanitarian perspective. People should never forget that he achieved, with his team and with the same departments and the same resources that were available to those opposite, an outcome they said could never be achieved.

In terms of national security, we saw $21 billion either deferred or taken completely out of the Defence budget; we saw no decisions taken to contract new shipbuilding. In fact, regarding the one decision that was taken—to buy a large ship—members opposite bought a second-hand ship from the UK. In the one decision that was taken to build vessels, they sent the contract for 12 smaller vessels to Spain. When industry came to the members opposite with an unsolicited proposal to build the future supply ships, they did nothing. And they now have the hide to say that they did not have to take a decision, because the shipyards were working at capacity under them. Well, they were working at capacity because of the leadership of the Howard government, which signed the contracts for the LHD and the AWD. And in the future they will be working because of the leadership and commitment of this government to bring forward future shipbuilding programs to give Australia and Australians a secure future.

Senator RICE (Victoria) (16:11): The Prime Minister is stubbornly refusing to listen to the Australian people on this important issue of equality and ending discrimination. As a result, it is our friends and neighbours, our brothers and sisters, our colleagues at work—even the Prime Minister's own sister—who are suffering. Around Australia, there are loving couples who want to show their commitment to each other in front of their family, their friends and the law and to take part in our society's rituals and celebrations, but they are being denied that right because of who they love. Last week the Prime Minister had the chance to change that. Instead, we saw a six-hour meeting that achieved nothing other than dividing his own party room. What a show of leadership!
The opinion poll that came out today reinforced what we know: that over two-thirds of Australians recognise that a couple should be given the opportunity to marry, to declare their love for each other, regardless of their gender or sexuality. The Prime Minister is out of touch with this majority, and he is trying every trick in the book to delay the inevitable change. We will see marriage equality in Australia, and we will see it sooner rather than later. On marriage equality we are lagging behind our peers in the world who have recognised it: the UK, New Zealand, Ireland and, most recently, the United States. However, we have the Prime Minister wanting to drag us further behind the rest of the world. And every day that we delay, Australian couples are waiting for this discrimination to end. We have to act now.

In terms of leadership, we have so many options up in the air at the moment, from a referendum to plebiscites—after the election, at the election, before the election. Who knows the meaning of these plebiscites. A referendum is a ridiculous idea. A referendum would require a majority of states, a majority of people—

Senator O'Sullivan interjecting—

Senator RICE: To change the Constitution when the Constitution—

Senator O'Sullivan interjecting—

Senator Moore: Mr Acting Deputy President, a point of order: I think Senator Rice should be allowed to be heard in silence, as we have listened on this side to previous speaker, from the government.

The ACTING DEPUTY PRESIDENT (Senator Smith): Thank you, Senator Moore. I remind senators on my right that other senators will be heard in silence.

Senator RICE: A referendum is unnecessary. We do not need a referendum to change the Constitution, which clearly states that it is in the power of this parliament to decide on marriage. A plebiscite will tell us what we already know—that the vast majority of Australians want marriage equality. But, if it comes to a plebiscite, we must not prolong the process. Some plebiscites can take years, which will give a microphone to the more homophobic elements of our society and take a really heavy toll on lesbian, gay, bisexual, transgender and intersex Australians and their families. If we are going to have a plebiscite, it must be held as soon as possible, no later than at the coming federal election, and the wording has to be owned by the parliament. It must not have the opportunity to be left to another of the Prime Minister's disastrous captain's picks.

We have the opportunity to end discrimination and to legislate for marriage equality in this parliament. It is up to this parliament. We are in this place to represent Australian people. The easiest and most straightforward way is to allow the cross-party bill which is currently in the House of Representatives to be debated in the House of Representatives and for the members of the Liberal Party to be given a conscience vote, a free vote, so that they can be listening to their constituents and voting according to their conscience. We should be allowing legislation to be debated similarly in the Senate. Every day that the Prime Minister delays this is another day that the discrimination against LGBTIQ people, and their families, in Australia continues.

Last week I raised in question time the story of 62-year-old Gerard, who is despairing that he may never get the opportunity to marry his long-term male partner, the love of his life. But, symptomatic of this government, the Minister representing the Prime Minister completely ignored my question, just like this government is ignoring the Australian people. Today I
received a message from Gerard. He thanked me, saying, 'It's typical of the parliament that you didn't get an answer, but you did persevere, and I am so grateful for this.' There are thousands of people just like Gerard around the country, and the Prime Minister is failing them. But, despite the best efforts of the Prime Minister, the Greens will continue to stand—

(Time expired)

**Senator CAROL BROWN** (Tasmania) (16:17): I also rise to speak on the matter of public importance:

The Prime Minister's failure of leadership on marriage equality.

We have already heard in Senator Fawcett's contribution on this matter how difficult it was for him to support his Prime Minister on this matter, because he talked about a lot of things, but I did not hear marriage equality being one of the things that the Prime Minister has led on. We only have to look at Mr Abbott's own words to see that this motion is supported on the fact that there has been no leadership from the Prime Minister on marriage equality.

After last week's marathon six-hour joint party room meeting on marriage equality, the Prime Minister stood before the press and announced:

As a result of the discussion in the party room …

I've come to the view—I believe this is the party room view—that this is the last term in which the Coalition party room can be bound, although we will definitely maintain the current position for the life of this term.

Going into the next election, we will finalise another position. The disposition of the party room this evening is that our position going into the next election should be that, in a subsequent term of Parliament, this is a matter that should rightly be put to the Australian people.

What a lot of gobbledegook. That is the kind of failed leadership we have come to expect from Mr Abbott on this issue. Under Mr Abbott the government policy could currently be best described as 'something else at some time in the near future'. Mr Abbott's recent actions have once again shown that he is the biggest barrier to marriage equality in Australia. It seems that every day is Throwback Thursday for Mr Abbott, as he clings to an outdated policy driven by his own out-of-step ideology.

The community have made it clear that marriage equality is something that they want. We have seen again today polling that overwhelmingly supports marriage equality. That has not just been in 2015. The results that we see in the paper today go back to 2010. The support for marriage equality in the community is growing. It will continue to grow regardless of the tactics by the Prime Minister to delay a vote on marriage equality in the parliament. With young people aged 18 to 24, the support is at 88 per cent. As I understand it, even a majority of Mr Abbott's own front bench support a conscience vote on this issue.

Clearly, marriage equality is an issue that should be dealt with by the parliament. In fact, the High Court has made it clear that this is an issue for the Commonwealth parliament. However, if Mr Abbott is so adamant that he wants the people to vote on this issue then let them. Let the people vote, and let the people vote now. Mr Abbott's political ineptitude and dogmatic ideology have fractured his own party, with senior cabinet members duking it out on the airwaves to shape the government's future policy on marriage equality. And do you know why they are doing that? It is because they do not trust him, so they are out there trying to put their view first before Mr Abbott decides what it is for them.
We have heard repeated calls from the self-appointed leader in waiting, Mr Morrison, suggesting we need a referendum on the issue of marriage equality. That is nothing but a political ploy to delay the momentum for equality. The Attorney-General, Senator Brandis, conceded as much in this chamber. Senator Brandis agreed with Labor that the High Court has ruled that the Commonwealth parliament has the power to legislate for same-sex marriage when he said:

I can't imagine there being a referendum question on this issue because, as I indicated … on this issue, the Constitution is perfectly clear.

He said:

… the High Court has spoken unanimously, unambiguously and recently, and this is really the end of the matter.

A public vote on this issue would run the real risk of being a taxpayer funded campaign for discrimination. Tony Abbott has the ability to lead a respectful debate in the parliament, but he has chosen the path of division and delay. If the Prime Minister cannot step up, if he cannot be the leader to this nation on this issue, the very best——

Senator CANAVAN (Queensland) (16:22): On this matter of public importance, I want to note up-front that this is a very personal and very heartfelt question for many people. I want to start by quoting someone else, someone who a few years ago said: 'On the issue of marriage, I think the reality is there is a cultural, religious and historical view around that which we have to respect. I do respect the fact that's how people view the institution.' That was a quote from the Leader of the Opposition in the Senate, Senator Penny Wong, in July 2010, defending her then position in favour of traditional marriage. I do not begrudge anyone the right to change their view, after consideration, and obviously Senator Wong did that in the intervening five-year period. But she had a different view five years ago, and I still have a view—I have not changed my view over that period—in support of keeping the current definition of marriage. I respect other views. I am not going to try and make any comment on the Leader of the Opposition in the Senate, but I do note that, from senators opposite, sometimes I do not feel that respect coming through in their contributions in this chamber on this debate, including from some senators who have changed their views in very short spaces of time. There is almost this view that it is a moral issue, that you must be immoral if you hold a different view, that you must be cast out if you do not agree with their view, when only a few years ago they held the very same view as me. That to me seems anomalous and something that cannot be held up to right and proper scrutiny in this debate.

I would also say that there are still Labor senators who support traditional marriage, and I speak to some of them sometimes. Sometimes they freely admit that they continue to support traditional marriage, except you would never hear them say that in this chamber.

Senator Bernardi: They're not allowed to speak.

Senator CANAVAN: Senator Bernardi is right. They are not allowed to speak. We hear from the other side that they do support, at the moment, a free vote, but where are the other speakers for this side of the debate from the Labor Party on this issue? I would suggest that they are silenced by the Labor Party; they are not allowed to have their voice.

When you look at the position the Labor Party adopted at their recent convention, they are not showing any clarity over what their view is on this issue, because their position at the
moment is that the Labor Party will have a free vote until the next election and then, after the next election, their members will be bound to support their party's policy in favour of a change to the Marriage Act.

Senator O'Sullivan: How does that work?

Senator CANAVAN: Through you, Mr Acting Deputy President, to Senator O'Sullivan: I do not know how it works, because they come in here and call on us to adopt a free-vote policy but their free-vote policy has a time limit on it and then they will adopt a binding vote after that. So I am not exactly sure where their criticism is coming from for our position of maintaining a party policy on this issue.

I noted that the first speaker on this MPI today was Senator Gallagher. I was not here for her contribution, unfortunately. But a few months ago she very succinctly summarised the dichotomous view here of the Labor Party. She was asked in a press conference a few months ago, 'Do you support a conscience vote in the Labor Party on this issue?' Senator Gallagher in response said, 'Well, I do. I do support a conscience vote.' Later on in the very same interview, she said, 'Myself—I do support a binding vote in the party.' Then she was asked the logical question after those two seemingly contradictory positions: 'Are you saying you support a binding vote or a conscience vote within the Labor Party?' Senator Gallagher said, 'Well, I support both.' I do not know. I am not getting any clarity from that position, but that is actually the Labor Party's position right now. Senator Gallagher was criticised quite strongly for it at the time, but that is what the Labor Party actually ended up adopting at their conference only a few months ago.

What the coalition adopted last week was to maintain our party position, which has been a position for some time, in support of a view that marriage is between a man and a woman, as it has been for centuries. That is how we believe it should be defined and remain defined. We do have different views in our respective political parties, the Liberal and National parties, and I have no problems with that whatsoever. It is a great thing. We should celebrate the fact that there are different views from time to time. But of course it is also the case that in our party it is the proper jurisdiction and power of the party room to establish the policy of the party room. There was a lengthy debate last week, where every member got to speak. This is an important issue, in my view. Everyone was allowed to make their contribution. At the end of it, the clear majority was in favour of maintaining our party policy position. I actually think that there should be great respect given to our Prime Minister because he gave that time of his—it was about six hours—to hear all of his party members' views and then respected the views that were in the party room and they were adopted as the party room's policy.

We have also said that there should be a people's vote after the next election on this issue. It is really important—it is such a significant issue—that we should be deliberative about this change. It is not something we should rush into. We hear from the other side that this is just delaying and it is taking too much time. Every culture known to man has had a position that marriage is between a man and a woman, for more than five centuries—and apparently taking five years to make a change to our Marriage Act is too long. I reject that view. I think the Marriage Act is very important and the definition of marriage is extremely important. I believe the nurturing of a child in a relationship between a married mother and father is the best outcome, the ideal outcome, for a child. Notwithstanding that there are other very, very good parents, the ideal outcome is to have the biological mother and father remain married
and provide the care for that child. That is not something I believe from any religious or personal view; it is something I believe from a very extensive and clear-sighted look at the literature in this area. The technical literature in this area is very, very clear: the best outcome for a child's development is to be nurtured by a mother and a father who remain married.

In my view, that is one of the key reasons why this institution has evolved. We come into this place sometimes and think we know what is best for humanity and the world, without due respect for the institutions that have evolved over time in our human culture to properly reflect the problems of humanity. This institution is something that has evolved over decades and centuries to form around the relationship of a man and a woman. I believe it has been formed for one very clear reason: while it is the right and proper institution for children to be raised today, it was the right and proper institution for children to be raised five centuries ago as well. That is why it has been adopted. We should be very careful before we tinker with an institution that has lasted the test of time. I believe it is right to allow the Australian people to make that choice after a lengthy and considered debate.

Senator LAZARUS (Queensland) (16:30): Tony Abbott's approach to marriage equality is nothing short of embarrassing and out of step with the views of the Australian people. In fact, I am embarrassed by the way Tony Abbott is behaving and I think he should be sinned from parliament until the issue is resolved. Not only is he failing to show leadership; he is making a shameful mess of a very serious issue which needs to be resolved as a matter of urgency. The people of Australia are being affected and our international reputation is being further trashed as a result of the Abbott government's stupid actions. This is why I want same-sex marriage to be taken out of the government's hands and put to the Australian people in the form of a plebiscite, so the people can vote on this issue. While not everyone is in favour of a plebiscite, at least this process will ensure the people of Australia are directly involved in the resolution of this important matter.

Marriage inequality only does one thing: it fosters discrimination across all areas of our community and promotes discrimination on the grounds of sexual orientation. Discrimination of any type is not acceptable. My sport of rugby league was the first national sporting code in Australia to embrace marriage equality. We in rugby league understand the importance of marriage equality. We understand that marriage is about love and not gender. We understand that marriage equality is about human rights. We understand that everyone deserves the right to marry, enjoy the benefits of marriage and experience true inclusiveness, which we know provides important social and cultural benefits. Together with the Greens and other crossbenchers, I am sponsoring a bill which will be introduced in the Senate in the near future to force the government to undertake a plebiscite at the next federal election. I want marriage equality to become reality in Australia, as do most Australians.

Senator URQUHART (Tasmania—Deputy Opposition Whip in the Senate) (16:32): I would like to start by sharing with you the story of Sandra Yates and Lee Bransden from Devonport in my home region of north-west Tasmania. They first met about 30 years ago when Sandra volunteered to pick apples in an orchard that Lee managed. They love camping and they both love music, art, cooking and politics. They describe each other as soul mates. Recently, Sandra and Lee flew to New Zealand to get married at a ceremony in the Mitai Maori Village in Rotorua, an idyllic destination for an ordinary couple in love to make their vows and embark on married life you might think. But, sadly, the reason that Sandra and
Lee had to go to New Zealand is that they are not being treated like an ordinary couple in this country. They would have loved to have sealed their union on home soil, but they cannot because it is not legal because Sandra and Lee are both women, and, quite frankly, they simply do not have the luxury of time to wait for the day when we in this place give them the freedom to choose the path that millions of other people take for granted. Lee suffers from an incurable lung disease and it is very possible that she has only months or even weeks to live.

Lee and Sandra knew that time was short, but they also knew, without a doubt, that they must find a way to legally marry. Unfortunately, they also knew they would not be able to do it in this country, so they put out a call to the community for help through a crowdfunding campaign. The community response was incredible. In only two days, Sandra and Lee managed to raise more than $10,000 so they could fulfil Lee's dying wish to be joined together with Sandra in marriage. While this is a very special and touching story of the triumph of love over adversity, it is a story that simply did not need to happen and one that should not have happened. It should have not have happened to Lee and Sandra and it should not happen to any other couple.

After they returned from New Zealand, Sandra and Lee have continued to be active campaigners for marriage equality. They continue to advocate for change so that other couples will not find themselves in the same situation. They have tried to reach out to their local members of parliament, asking us to meet with them to listen to their story and to ensure that we are guided by the principles of humanity, fairness and equality when we make any decisions.

I met with Sandra and Lee prior to them heading off to New Zealand. They are very caring human beings who just want to have their relationship recognised by marriage while Lee is still with us. We laughed and joked about a number of things. Lee told me about her little dog and the struggles that she has with her condition, and they both talked about how the recognition of their relationship by marriage would mean the world to them and provide them with peace. I hope they have found some of that now, although I know that whatever the future holds for Lee, Sandra will continue with the battle to ensure other couples are able to have their marriage recognised legally in Australia.

Unfortunately, despite Sandra and Lee's public plea, their local member of parliament, Mr Brett Whiteley, still has not got in touch. He has not reached out to learn more about their story. He has not made any attempt to understand what they have gone through and to consider how many others in his community might also be suffering from this discriminatory legal framework. Through the local newspaper, he said that they could pick up the phone and call him. Well, why couldn't he do what I did and reach out to them, and at least offer to meet with them and hear from them what this discrimination means to them and to others in our community? Mr Whiteley said that the push for marriage equality 'fails in, my view, to carry the goodwill of the community'. He is not alone.

Many on the conservative side of politics continue to assert that they know that Australians do not want marriage equality. But the facts do not support this assertion. In fact, polling shows that almost three-quarters of Australians are supporters, and the momentum is building. There is nothing that Mr Whiteley or anyone else can do to hold off the push for the removal of this discrimination, not in Australia or around the world.
In June, the Supreme Court of the United States ruled that same-sex couples can marry anywhere in the country. This progressive milestone comes on the back of another historic outcome in Ireland. Ireland is a deeply religious nation not known for its progressive values and actions, but last month it became the first country to put the issue of marriage equality to the people through a referendum. There was a great turnout for the vote. It even saw Irish expats filing onto planes to head home to have their voices heard. The result of the vote was a decisive 62 per cent to 38 per cent in favour of marriage equality. If the vote in Ireland and the ruling in the United States have taught us anything, it is how far the rest of the world has moved and how far Australia is lagging behind.

These milestones come on the back of legalisation of same-sex marriage in many countries, including New Zealand, the United Kingdom, the Netherlands, Norway, Portugal, Brazil and Sweden. And do you know what the outcome of the legal change has been in these countries? Do you know what has happened in the places that have decided to legalise marriage equality? Well, I will tell you. People who loved each other got married. That's it. Full stop. Other couples still got married, and their marriages were still just as special. And the sun continued to shine and the world continued to turn—even in conservative countries.

We need to understand that this isn't just about the right of two individuals to have their love recognised under the law; it is about the value we place on these relationships. It is undeniable that our legal framework has a direct flow-on effect on broader social attitudes. Until marriage equality is enshrined in Australian law, we will continue to send a state sanctioned message to couples like Sandra and Lee that their love is somehow less valid, less real or less important. And, in doing so, we tell the children who have two parents of the same gender that their family is somehow less valid, less real or less important.

Opponents of equality use the pretence of protecting children as one of their major arguments to blocking marriage equality. I challenge them to look at a child who is being bullied, because his family is different, and tell him that they are protecting him. No, we are not protecting the children. We are maintaining and reinforcing discrimination that can only foster ignorance and homophobia.

The momentum is building to change this anachronistic policy. As a member of the Labor party, I am proud of the fact that previous parliaments changed 85 laws to remove discrimination against LGBTI Australians and same-sex couples. That is our legacy. But we still have the final hurdle ahead: to remove the final gender inequity for same-sex couples.

Close to three-quarters of Australians recognise that this needs to happen. When will our parliament catch up? How can it be that three-quarters of our community believe in marriage equality but two-thirds of government members want to lock their party into a regressive and discriminatory position? How can there be such a disconnect between the people of Australia and our elected representatives?

Prime Minister Tony Abbott previously said the problem is that the bills before the parliament have been from Labor or the Greens. He said that any bill must be co-sponsored by all parties. But last week, when a co-sponsored bill was due to hit the parliament, he did an about-face and manoeuvred to ensure that supporters within his party could not vote with their conscience on the issue.
The Liberals did not spend six hours deliberating on their savage cuts to health, education and welfare; however, this is the amount of time they spent on deciding to entrench discrimination against same-sex couples. For a party that regularly brags that their members are not bound to vote in any particular way, this should not pose a problem. So why does it?

Australia's lack of action on marriage equality is an international embarrassment, and Prime Minister Tony Abbott's suggestion of a referendum would be an outrageous waste of money when we know that public support for change is overwhelming. Prime Minister Abbott has nothing to gain from this belligerent stonewalling, and it will only reinforce people's perception of him as a dinosaur. He is not going to hold off Australia's eventual move to marriage equality. The momentum is growing. Every day in the different states and territories, we see the momentum for change. It is time that the people in this place started acting on the will of the people across this country. It is time for the Prime Minister to step aside and let his government members do exactly that.

Senator BERNARDI (South Australia) (16:41): I have to say I am a little embarrassed. I am embarrassed about the quality of debate that I have been able to listen to in this chamber. Whilst I understand that this is a very sensitive topic, I think it is incumbent upon us to be straightforward, honest and open about and accountable for the comments that we make.

I have to comment briefly on Senator Lazarus's contribution. In rugby league parlance, Senator Lazarus said he wanted the Prime Minister sin-binned for the grievous crime of putting in place a process that would deliver the same outcome that Senator Lazarus wants. He wants to sideline the Prime Minister, because he happens to agree with him. It was an extraordinary two-minute contribution. Perhaps he could come back and explain exactly what he is disagreeing with the Prime Minister about.

Then we have Senator Urquhart who channelled all the regular nonsense about people who are opposed to same-sex marriage. She managed to mention dinosaurs, homophobia and bullying and how it is not going to have any impact on the rest of society and the world. She quoted what has happened internationally. Once again, Senator Urquhart, in order to defend her position, said, 'Look at what happened in Ireland where the Irish people got a vote and had a say.' That is exactly what the Prime Minister is proposing for the people of Australia. It is okay when the Irish do it; it is wrong when Australians do it.

Senator Urquhart then went on to say that nothing else changed when same-sex marriage was legalised in other jurisdictions. She should acquaint herself with the facts. We have seen people taken to court, because they have had a disagreement or a conscientious objection to being forced to participate in certain actions or practices. We have seen it impinge on religious freedoms in court cases and challenges to churches who were regularly promised would be exempt from that. We have seen further demands for the redefinition of marriage. If it is only about who you love, why should the number vary? These are the sorts of things that have been going on internationally, but they do not want to admit that on the other side.

If you want to get back to the leadership issue of Mr Abbott in this space, he knows that the Australian people, just like this parliament, have a number of different views. We have got to respect those views, quite frankly, and we should be able to have that battle of ideas without rancour, abuse and the pejorative slurs that some, like Senator Urquhart, have resorted to.
Our party took quite clearly to the last election that, if we wanted to redefine marriage, we would put it to our party room. I know of no other Prime Minister who has listened to 99 people have their say in their party room over six hours to gauge the mood of the party room before making a determination. That determination was: we would stick to our policy and put it to the Australian people after the next election.

If, as we are told repeatedly, there is growing and building momentum and three-quarters of the people want this, what do those on the other side have to be afraid of? What are they worried about in putting it to the Australian people? We have Senator Lazarus, the Greens and others saying they are going to put in their own bill about having a plebiscite. What is the problem with us on this side wanting to have a plebiscite or a referendum or however you want to characterise it? What is wrong with going to the Australian people with it? Apparently, to the Labor Party, there is something wrong with that. The Labor Party are frightened of the people. That is the big problem. They are frightened of the people, and they do not know what they are doing. They have been sidetracked with this.

I would say to you that every single one of us in this place knows people who are passionately in favour of redefining marriage and those who are equally passionately opposed to redefining marriage. How are we expected to respond to the issue that parliament should deal with this matter when parliament in the last 10 years has had 16 different bills introduced seeking to redefine marriage? Three of them have been introduced this year. All of them either have failed by vote or failed by not being brought to a vote because the numbers were not there, or have just sat there on the Notice Paper. Sixteen times in the last 10 years, this parliament, in one way or another, has legislatively dealt with the proposal to redefine marriage. Parliament has decisively ruled on this, yet that is not enough for those who want to redefine marriage in an image that they seek to do it in.

So what is the only answer? If parliament renders its verdict again and again and again and it is not accepted, surely it is time to put it to the people. People who are as opposed to redefining marriage as me—and there are very few who are more opposed to it, I have to tell you—would have very little basis to object, under circumstances appropriate to a vote, 'We want to change marriage.' I might not like it, but ultimately I live in a democracy. Issues such as this do have significant and profound consequences and implications for other people's rights and for the types of freedoms we have in this country—and unforeseen consequences, might I add. I would have very little case to argue against it, particularly if my state of South Australia did it in concert with the majority of other Australian states.

I am not afraid of the people. I am happy to take the argument there. I know I will get called names by those on the other side. I will not respond in kind, but I will put the facts on the table. I will show again and again and again that what is being proposed by the other side is not just some innocuous change and not some campaign slogan called marriage equality. It is a significant departure from what has always been in our country, in our culture and in cultures for time immemorial. It has profound implications for how our society functions and the freedoms we enjoy—(Time expired)

**Senator LAMBIE** (Tasmania) (16:48): I rise to briefly contribute to the debate on the matter of public importance. It is clear that Mr Abbott is one of the worst prime ministers Australia has ever had. His leadership has failed on many issues, including same-sex
marriage. Mr Abbott lacks the ability to unite and inspire ordinary Australians. If he were a leader who was sensitive to the needs and wishes of the Australian people, he would have supported my call and other crossbench senators’ calls to hold a separate vote on same-sex marriage at the next election.

Let the people decide what our definition of marriage is, and let's get into talking about the out-of-control youth unemployment rates; organised criminals making big dollars selling ice to our kids; our pensioners struggling to pay their heating bills; our public hospitals, which are full, and Australians needlessly dying on record health waiting lists; homeless, desperate and suicidal veterans; and threats to prime agricultural land and hardworking farmers.

I strongly oppose any discrimination against LGBT people. LGBT Australians are very important and valued members of our community. I am sorry if my religious views have offended some LGBT people, but, just as non-Christian religious traditions are expected to be respected by all Australians, I would like my sacred Christian traditions respected as well.

A vote by the Australian people at the next election will quickly, fairly and legitimately settle the matter of same-sex marriage. If Mr Abbott understood leadership, he would realise that a vote by the people on this matter would also help to quickly heal the hurt that is created by this debate. The government talk about saving money and they talk about doing the heavy lifting. This is an opportunity to take it to the next election, save a lot of money, and once and for all get this done and get this voted on.

Senator MADIGAN (Victoria) (16:50): Children have rights, and their rights should be our primary concern. The United Nations Convention on the Rights of the Child states that all children have the right to know and be cared for by their parents. Despite all the love and care that can be given in a same-sex-parents household, children grieve when they do not have a mother and a father. That is why, I believe, we as legislators should not normalise a family structure that encourages children to be raised in anything less than the ideal family unit. Our laws should uphold the highest ideals.

I do recognise, however, that there are different views on this issue. This is a matter of conscience for all Australians, not just us as politicians. I therefore call on the government to agree to a plebiscite on this issue, to be held in conjunction with the next federal election.

The ACTING DEPUTY PRESIDENT (Senator Smith): The time for the discussion has expired.

DOCUMENTS

Consideration

The government documents tabled today and general business orders of the day Nos 1 and 2 relating to government documents were called on but no motion was moved.

BILLS

Australian Radiation Protection and Nuclear Safety Amendment Bill 2015

First Reading

Bill received from the House of Representatives.

Senator RYAN (Victoria—Parliamentary Secretary to the Minister for Education and Training) (16:52): I move:
That this bill may proceed without formalities and be now read a first time.
Question agreed to.
Bill read a first time.

Second Reading

Senator RYAN (Victoria—Parliamentary Secretary to the Minister for Education and Training) (16:53): I move:
That this bill be now read a second time.
I seek leave to have the second reading speech incorporated in Hansard.
Leave granted.
The speech read as follows—

This Bill amends the Australian Radiation Protection and Nuclear Safety Act 1998 to ensure that Australia's regulation of radiation activities remains at the forefront of international best practice.

Since 1999, the Australian Radiation Protection and Nuclear Safety Agency (also known as ARPANSA) has been regulating Commonwealth entities undertaking activities involving radiation. This has included regulation of organisations such as CSIRO, ANSTO and the Department of Defence to undertake activities ranging from the operation of baggage x-ray machines at airports, to the operation of the OPAL research reactor at Lucas Heights.

Since the introduction of the legislation in 1998 there have been changes to international approaches to radiation and nuclear safety, as well as a number of reviews that have identified the desirability of minor changes to the regulatory scheme.

This has included reviews by the International Atomic Energy Agency and by the Australian National Audit Office. On the whole, the regulatory scheme was found to be appropriate, however changes were suggested to clarify the reach of the legislation, to strengthen the monitoring and enforcement powers of the regulator and to continue to ensure the legislation aligns with evolving international approaches.

Drawing on the recommendations of the various reviews and the experience of ARPANSA, this Bill makes changes to the legislation to provide greater clarity regarding the reach of the legislation, improve risk management of radiation activities undertaken by Commonwealth entities and provide greater capacity for ARPANSA to act in the event of an emergency or non-compliance with the legislation.

Specifically, the Bill makes amendments in four main areas.

Firstly, the amendments provide ARPANSA with greater powers to monitor compliance with the legislation and to take action in the event of non-compliance. For example, the amendments enable the CEO of ARPANSA to require a licence holder to produce information or documents, or to appear before the CEO to answer questions. Inspectors are also being empowered to issue improvement notices to require licence holders to address contraventions of the legislation, or likely contraventions, within certain timeframes.

These changes ensure that ARPANSA can access the information it needs to assess compliance with the legislation and can adopt a graduated and proportionate response to non-compliance, should it be identified.

The amendments also support the CEO of ARPANSA to better respond in the event of an emergency, by enabling the CEO to issue directions to licence holders to minimise any risks to people and the environment in unforeseen circumstances.
Importantly, all action taken by ARPANSA in response to non-compliance or to emergencies will continue to be reported quarterly and annually to the Parliament and will also be made publicly available.

Secondly, the amendments clarify the application of the legislation to contractors and those in arrangements with the Commonwealth or operating from facilities owned or controlled by Commonwealth entities. This provides greater regulatory certainty and ensures there is no gap in regulatory coverage between entities regulated by ARPANSA and those regulated by State and Territory authorities.

Thirdly, the proposed amendments improve the licensing regime and make it more efficient by:

- enabling ARPANSA to issue time limited licences in circumstances where time limits may be more appropriate and ensures that unnecessary licenses do not exist into perpetuity—currently, no licenses expire;
- providing for ARPANSA to regulate activities to maintain the integrity and safety of contaminated legacy sites as under current arrangements, ARPANSA does not have a clear legal basis to undertake this work; and
- clarifying that ARPANSA may issue single licences for multiple activities to reduce regulatory burden and streamline arrangements.

Finally, the Bill makes a number of minor technical and administrative amendments, such as updates to definitions and removal of outdated provisions to improve the operation of the legislation.

The proposed changes have no financial implications, and do not place any additional regulatory requirements on regulated entities. The amendments reflect sound administrative practice, and will ensure that Australia's regulation of radiation remains best practice.

Debate adjourned.

Medical Research Future Fund (Consequential Amendments) Bill 2015

Migration Amendment (Strengthening Biometrics Integrity) Bill 2015

Returned from the House of Representatives

Message received from the House of Representatives agreeing to the amendments made by the Senate to the bills.

Australian Radiation Protection and Nuclear Safety Amendment Bill 2015

Report of Legislation Committee

Senator O'SULLIVAN (Queensland—Nationals Whip in the Senate) (16:53): On behalf of the Chair of the Community Affairs Legislation Committee, Senator Seselja, I present the report of the committee on the provisions of the Australian Radiation Protection and Nuclear Safety Amendment Bill 2015, together with the Hansard record of proceedings and documents presented to the committee.

Ordered that the report be printed.

Fair Work (Registered Organisations) Amendment Bill 2014 [No. 2]

Second Reading

Debate resumed on the motion:

That this bill be now read a second time.

Senator LUDWIG (Queensland) (16:54): As I was saying before the debate on the Fair Work (Registered Organisations) Amendment Bill 2014 [No. 2] was interrupted, the bill's
obligations on officers of the trade unions and employer associations is too wide and creates an undue administrative burden on some registered organisations that are less than one per cent of the financial size of companies that have less stringent obligations under the Corporations Act. The most important problem, however, is that registered organisations are not companies. It seems to be a matter that seems to have escaped the attention of the government. The government has completely failed to recognise the difference between corporations and registered organisations. Unions are different to corporations, which are different to charities and clubs, and Australia rightly regulates each type of entity differently. Otherwise, the rationale of their debate would be, 'We will use the corporations power to regulate small incorporated bodies. 'We will use the corporations power to regulate charities, clubs and companies and they will all be put into the one mix.' It is not surprising that the government might want that but, ultimately, it is not a sensible or rational policy choice.

As we know, many different entities in this country are covered by different regulatory regimes that are more appropriately suited to what they do and how they do it. That is the sensible option and the sensible way forward. The Independent Panel on Best Practice for Union Governance, in its report to the ACTU, found that a number of researchers have questioned the merit of drawing upon a corporate model of accountability, pointing to the fact that trade unions are very different types of organisations and that, even within trade unions, there are different organisations, ranging from the very large to the very small. Their rationales for formation, the purposes they serve and the nature of their membership are some of the largest differences. You do not have in Woolworths or Coles or a multinational business, for example, a management body that is elected by the members. Shareholders are different. They have large financial exposure to a company by reason of the size of their shareholding; by contrast to union members who necessarily invest only their generally fairly modest membership fees.

But, in truth, this is not a debate about unions and how they should be regulated. This government is using this piece of legislation as a way to bash unions and to use accountability and transparency as the stalking horse, as a way to undermine unions.

Senator O'Sullivan interjecting—

Senator LUDWIG: I will take that interjection, because I know Senator O'Sullivan really does like unions. He would have been a member of a union for 20-odd years and probably used their services many times over the period that he was a member of the police union. I would not even be surprised if Senator O'Sullivan had been in an official capacity in that union. I am sure he would agree with me that this legislation is all about bashing unions, and nothing else. The government of course have many other things that they can talk about, but in this instance they do not want to talk about some of the important issues that face Australia. What they would rather do is try to distract everyone's attention away from some of the big issues and onto unions.

Amongst other things, the opposition sought to engage with the government to flesh out what they sought to achieve in relation to these reforms and whether the government would, in a bipartisan way, allow amendments, including amendments that would ensure penalties were not greater than those in the Corporations Act. As I understand it—and I am happy to be corrected—the shadow minister, Brendan O'Connor, engaged with the Minister for Employment about these very issues; however, the government remained implacable.
The government continue to peddle this line that they want the position that they have promulgated. They do not want to negotiate; they do not want to actually secure the passage of this legislation to improve accountability and transparency. Why? Because they want to use it as a Trojan Horse to bash trade unions with. They are simply using the bill, along with millions of taxpayers' dollars being spent on the royal commission, to attack those they perceive as their political enemies, as may play out in the royal commission today.

There have been fundamentally unfair pieces of legislation introduced into the parliament that seek to cut hard-earned working conditions for workers who want to achieve a fair day's pay for a fair day's work. There was a Productivity Commission review into the Fair Work legislation, which is the government's mandate to cut rights and conditions by using the Productivity Commission as another Trojan Horse. In fact, they have got a team of horses.

The dirty trick to cut government cleaners' pay is another example of where the government are undermining our strong industrial relations system, as is scrapping the low-income super contribution, hitting the retirement incomes of low-paid working Australians. And we have seen them delay the increase in the superannuation guarantee. The Prime Minister had promised that no worker would go backwards under him, but his freeze means workers on average wages would be $579 worse off over a four-year agreement.

The government have also had a shocking public sector bargaining framework which is designed, I think, to have no outcome for workers in the public sector. And let's not forget the 180-degree turnaround on paid parental leave. I would like to hear their explanation of that U-turn. We have also heard from 10 coalition backbenchers, and members of the frontbench, coming out and calling for the abolition or cutting of penalty rates. This is the policy pursuit of those opposite. We have also got the Royal Commission into Trade Union Governance and Corruption where, just last week, *The Sydney Morning Herald* revealed that the commissioner, His Honour Dyson Heydon, had accepted an invitation to attend a New South Wales Liberal Party fundraiser and, as I understand it, that is playing out as we speak. The coalition are confused, but they really do have a shocking record on industrial relations. And it is not surprising to anyone that when they said WorkChoices was dead, buried and cremated, they had their fingers crossed behind their backs.

Before the last election the now Prime Minister tried to convince the Australian people that, if elected, he would not make any substantial changes to the workplace relations landscape. He promised he would not touch workers' conditions; he promised he would not cut wages or penalties. How things change in such a very short period of time! More than half-way through the term we have now got a raft of policy changes that this government wants to implement to hurt working families. Labor does not support this bill.

**Senator LINES** (Western Australia) (17:03): We have seen this bill, the *Fair Work (Registered Organisations) Amendment Bill 2014* [No. 2], many times before, and what that tells us is that the Abbott government are in trouble, because we know that when they are in trouble they turn on trade unions. They turn on working Australians. They had a shocker of a week last week. Firstly, they had a six-hour caucus meeting on marriage equality and came out with exactly the same position as they went in with—except that now they have got a few more disgruntled backbenchers and, indeed, frontbenchers.

Then at the end of the week we found that the New South Wales branch of the Liberal Party had invited the commissioner from the Royal Commission into Trade Union
Governance and Corruption to a Liberal Party fundraiser. No matter which way they dress it up, that is what it is. It is a Liberal Party fundraiser and the commissioner of the royal commission into unions—which is nothing more and nothing less than a witch-hunt—has been invited to give the keynote address. Again, it demonstrates how out of touch the Abbott government are.

They seem to think that if they keep saying that it is not a Liberal fundraiser, that someone, somewhere in the Australian community might believe them. But everybody has seen the invitation; everyone is able to read for themselves that it is clearly a Liberal Party fundraiser. The other question that came out today in question time is that, given the Attorney-General obviously received an invitation, did he pay his $80? Perhaps we will get to the truth of that.

The other clear issue with the Abbott government is that there are actions and there are words. Despite their words, it is their actions that really count. We heard the Prime Minister say that WorkChoices was dead, buried and cremated, yet bill after bill in this place resurrects WorkChoices in one way or another. As Senator Ludwig just pointed out, there have been a whole raft of issues—an attack on penalty rates, superannuation, cleaners' pay and the clothing trade industry to try to reform that industry. On and on it goes. There have been attacks on low-income super. The public sector has been bargaining in good faith, yet the Abbott government refuse to move unless public servants choose to take a significant reduction in their conditions, then they might get a few more cents in their pocket. But nobody is fooled by this—it is only the Abbott government that remain fooled by their own rhetoric. They need to have a good, hard look at themselves.

We know that the leadership rumblings have started again. We were promised after the last leadership vote that good government would start from then on, but we are yet to see it. The debacle on marriage equality, the debacle on their hand-picked royal commissioner—on and on the scandal, dysfunction and chaos continue. This registered organisations bill is just one of many attacks on workers—on those who put their hand up for voluntary positions within trade unions and, indeed, within employer organisations. They are under attack again. I think this is, at least, the third time this bill has come before the Senate, with barely a change to the intent of the bill. Let's look at the background.

I heard today those opposite going on and on about the Health Services Union and it was a disgrace—there is no getting away from that—but Labor in government acted. We changed the way that registered organisations had to operate and those changes are still working their way through the system. Of course, the Abbott government would pretend that nothing changed, when in fact significant changes were made to that bill, which were opposed by the ACTU and by employer organisations. Nevertheless, Labor went ahead, when in government, and put those changes in place. As I said, many of those changes are still working their way through the system.

We had a couple of public inquiries into this bill. It did not matter whether it was the Senate legislation committee where the government has the numbers or the references committee where the government does not have the numbers, the conclusions were the same. Nobody believed that this legislation was necessary—no-one. In all of the submissions, whether they were from employer organisations or from employee organisations, no-one thought this was necessary. Indeed, I heard today in this place a government senator saying
that most unions go over and above what is required under the registered organisation proposals before us today. That is true; we heard that in evidence.

The MUA goes out with its financial statements and has meetings of its members right across the country. It explains to members exactly what is and what is not in the financial statements of that union, but it still does not stop them from saying that somehow some other group needs to be legislated for. Even when we have the premier registered organisation employer organisations across the country saying that this legislation is completely unnecessary, the Abbott government nevertheless continues on and why? Because it gives them the opportunity to beat up on unions. I am not really a betting person but I bet you any money you like that, as we lead towards the Canning by-election, guess what will happen? There will be union bashing, there will be questions, dorothy dixers to ministers about trade unions. There will be speeches in here about the evils of trade unions because the government thinks that beating up on trade unions and on workers somehow increases their popularity.

You only have to look at the opinion polls to see that the Abbott government is deeply unpopular. In fact, on the sorts of issues that people would normally look to their government for support, they have lost the trust of Australian voters. Despite Canning being a relatively safe seat for the Liberals, the Canning bi-election will be a good test. We will see a swing against the government. I would love to unseat the government in that seat, but watch this space. We will see a full-on attack on trade unions over the next few weeks.

Today in this place, just as he did when he first spoke on registered organisations, Senator Back at least did not go as far as he did last time because in the interim I corrected him. He gave us a story of a member of the Health Services Union in Western Australia, a carer who was a member of her trade union. Senator Back thought that trade union was the Health Services Union and he went on about how the money was spent. But of course in a subsequent speech I pointed out to Senator Back that the union in Western Australia is United Voice; it is not the Health Services Union. Today, Senator Back told the same story again about the Eastern European member, implying that she had wasted her union contributions on this dud union, but this time he did not situate the example in Perth and he did not mention the Health Services Union. So he has learnt something.

We are seeing again this kind of rhetoric. It does not matter if it is not true, it does not matter if it is the wrong union; obviously all unions are the same. They all look the same. If you are a carer in Victoria and a member of the Health Services Union, without checking his facts he suddenly thinks it is the same union in Western Australia, which of course it is not. For a senator who prides himself on Western Australia, we often hear the Western Australian stories. He seems to know so much. He certainly could not get it right on which union carers who work in nursing homes in Western Australia belong to. It is United Voice. That story, discredited the first time, then I corrected the record, is still used a second time to somehow paint unions and low-income workers in a bad light. That story is completely wrong—and I listened very carefully today.

Between now and the last time this bill was presented, we now have the disgraceful Commissioner Heydon affair. If anybody needs checking, it is those opposite in whom they appoint, how they get there and how royal commissions are being used as nothing but witch hunts. To allow the commissioner to continue in that role is an absolute disgrace and nobody could take seriously either the interim report of the royal commission or any future reports
when it is presided over by a royal commissioner who thought it was okay to attend a Liberal fundraiser.

The Fair Work (Registered Organisations) Amendment Bill is exactly the same as a bill presented a few months ago. The explanatory memorandum to the current bill does not materially differ from the explanatory memorandum of the previous bill and it does not contain any additional information provided by the minister in relation to the matters raised by the Labor senators of the committee—again, the arrogance of those opposite. Even though in our report to the Labor senators raised particular concerns, did the minister or the government bother to take the couple of months between the presentation of the bill and today to try to address those concerns? No—of course they did not. In their usual arrogance they rolled up here and again tried to say to the Senate, 'Yep—same bill. We just want you to vote a different way this time.'

What do they think? What has changed? I have not heard employer organisations out there saying, 'Oh, we've got to have this bill. We've got to have this legislation in place. We've got to be compared to a corporation when we're not.' There are fundamental differences there. Again, this demonstrates that the Abbott government certainly do not understand trade unions. But even more so they do not understand registered organisations.

In the main, most of the office-bearers in trade unions and in registered organisations are volunteers. In the case of my union, United Voice, very few of the elected positions are paid positions. Most of them—the branch councillors, the treasurers, the presidents, the deputy presidents and so on—are all volunteers who give up their time, away from their families, and who sometimes take time off work to attend union meetings to be part of the running of the trade union. And that applies to all trade unions. Very few of the positions within trade unions are paid. And it is the same with registered organisations, as we heard in evidence. In fact we heard that it was perhaps much more difficult for them when they are running a regional group.

You would think that the National Party would try to look after them, but we know that the National Party have well and truly deserted the bush with all of the things that they have agreed to in this place. It certainly shows that if they ever were a party of the bush that they have well and truly left that behind. You might have the secretary, the president and the committee of an employer organisation all as voluntary positions. And yet, without blinking, the Abbott government just wants to apply extremely onerous reporting obligations to organisations. Further to that, it wants to fine them if they get it wrong.

I would suspect, as the employer organisations told us in evidence, that in future—if this registered organisations legislation gets through—they will have trouble filling those positions. Employer organisations, along with unions, fill a really important role in our community. They can moderate the behaviour of some employers who go beyond the pale, because usually they can be impartial and have the facts and figures at their disposal. But, no—the Abbott government just want to tear that to shreds.

Again, we have seen this blatant disregard by the Abbott government for those who volunteer in our community. We have seen that whether it is in the environment, with our environment groups which have just been run over by the Green Army, or with this legislation, where we just want to bowl over all volunteers in our community and put such
onerous obligations onto them that they will simply not put their hands up. They will be too scared to.

Perhaps that is part of the Abbott government's agenda—to scare these volunteers so that they do not put their hands up for trade union work or to be volunteers for employer organisations. That is where this legislation is heading. It is treating employer organisations and unions as corporations which, of course, they are not. They are not making profits and they are not returning a dividend to shareholders. That is not what either of those groups do, and yet that is how the Abbott government want to treat these groups, which do a really valuable job in the community.

The Scrutiny of Bills Committee raised issues to do with this bill too. In its fifth report of 2015 it drew attention to a number of issues that it believed were insufficiently dealt with in the explanatory memorandum. In particular, the Scrutiny Bills Committee noted its disappointment with the minister's failure to address these issues for a third time. We have to ask ourselves: are the government genuine when they say they want to listen and to respond? If a bill does not get up the first time you might think, 'Well, okay, we'll have another go.' But when it does not get up the second time and it is presented a third time, and the government have made no changes at all and do not even respond to issues raised either by the Labor senators' report or the Scrutiny of Bills Committee report then, seriously, you have to question the motives of the Abbott government in pursuing legislation like this. You would really have to question what their motives are.

And their motives are that they want to continue to bash unions. The government want to be able to stand up and say, 'Despite Labor moving legislation which already covers off on employer organisations and unions which requires officers to be trained and for there to be a lot more reporting and transparency, this goes way too far.' Again, they say, 'We think you're all guilty and that is why we need this legislation—to hold you all to account.' We have legislation in place at the moment which is perfectly adequate.

Did the Abbott government do any kind of review of that legislation? No, of course they did not. Again, their arrogance got in the way and they thought, 'No, let's just put this on our list of how to demonise trade unions.' And it is not working for them. It is not working for them. They only have to look at the polls, the disunity and the chaos in their own party to see that these types of bills are not working for them. Again, Labor will not support this bill because the government simply have not listened. They have not listened to one single word we have said in opposition to this bill.

We put the first lot of legislation in place. You might think that it stands to reason that perhaps they might be prepared to have a look and to say, 'Oh yes, we missed that. Yes, that is a good reform.' But, of course, no, they have not done that. They have not taken on one single suggestion made by Labor and they have certainly ignored the Scrutiny of Bills Committee. Why is this government continuing along this way? Because their actions speak louder than their words. We know that Work Choices is far from dead and buried. This is all Work Choices under another name. It is Work Choices by stealth—by putting this bill up, by putting up the ABCC, by putting up the low-income super, by knocking off cleaners' pay, by refusing to bargain in good faith in the public sector—on and on it goes. They are not giving one skerrick of compassion to the Hutchison Ports workers who perhaps are still facing the sack come 31 August.
This government has clearly shown it does not care one bit about workers; it certainly does not support trade unions; and it does not even support employer organisations. Labor will continue to speak out against bills like this, and we will continue to oppose them in this place. Thank you.

Senator McKENZIE (Victoria) (17:23): Thanks for the talking points, Senator Lines. It is always a pleasure. Senator Lines is Deputy Chair of the Senate Education and Employment Legislation Committee, so we have spent a lot of time examining this particular piece of legislation and consulting broadly with union organisations, the broader community and obviously the trade union movement. And pretty much everyone falls in along party lines, as it were. But we did do, Senator Lines, was take this policy to an election and we won that election. You ask why we bring in legislation that the Australian people actually voted for at the last federal election, why we bring it in to the Senate, why we bring it in to the House of Representatives. That is why: because they voted for it.

So I again rise to add my voice to the calls for greater accountability and transparency, not only in the trade union movement but across registered organisations. I am not of the belief that, simply because you are a volunteer in a registered organisation, the people you represent and the people whose money you administer should not be entitled to a level of governance that gives them faith and confidence that the board looking after their interests and indeed millions of their dollars is doing so with their best interests at heart. I think those hardworking Australians who are members of trade unions have a lot to be concerned about in terms of how the leadership of various unions—not all unions, but a great number—have actually used their money and their influence over time.

From Labor Party senators' discussions and debates around this bill before the Senate today, one would think the royal commission into the trade union movement was a waste of taxpayers' money. I will tell you what is a waste of people's money: when you look at the revelations coming out of the royal commission and the millions of dollars of hardworking low- to middle-income earners across this country that the leaderships amongst the trade union movement have wasted. It just beggars belief! We come here and we have these same debates along party lines.

I am not somebody who thinks that trade unions do not have a legitimate role in a civil society. Absolutely not. I was a president of a student union. I think the trade union movement has done great things for the Australian worker over a long period of time. But enough is enough. We need to restore faith in the trade union movement for the honest Australian worker.

It is very sad to stand here today—and the senators who are elected by those very hardworking Australian union members, whose dollars go to fund their preselection campaigns, whose money and votes and influence is used by the likes of Cesar Melhem in my home state of Victoria. You are shaking your head, Senator Polley—through you, Chair.

Senator Polley interjecting—

Senator McKENZIE: Do you want to come down to Victoria? Do you want to come and have a look at the Andrews government? Do you want to talk about Mr Pakula? Do you want to talk about Cesar Melhem? Do you want to talk about how hardworking Victorians' money
and votes are being used and abused by the Victorian Labor Party? I am happy to have that conversation. I will take you to them. We will have the meeting.

_Senator Polley interjecting_

_Senator Bilyk interjecting_

_Senator McKenzie:_ Because I have, in the interests of regional Australians' jobs—

_The Acting Deputy President (Senator Gallacher):_ Order! Senator McKenzie, please address your remarks through the chair.

_Senator McKenzie:_ Always, Mr Acting Deputy President. Through you, Mr Acting Deputy President: I have worked with a variety of unions, because I am concerned about job opportunities in regional Australia.

You have some really great unions that are out there actually working with the local employer to find some sustainable outcomes, where it is a win-win situation, where the business gets to stay open. These employers are not bottomless pits; they are actually employing people. So the best outcomes are when the union works with the employer to actually ensure that the productivity gains on the shop floor are achieved.

_Senator O'Sullivan:_ More jobs.

_Senator McKenzie:_ Thank you, Senator O'Sullivan: more jobs, more money, a greater community, greater stability. That is the best outcome. Sorry, I know I have completely gone off my speech. It really concerns me when those opposite do not actually stand up for bringing confidence back into the Australian public and their view of the trade union movement.

When we look at the trade union movement, it is not just the classic stories that we all know too well; it is also things that have been brought out through the royal commission; the Comancheros being used as debt collectors. Again, in my home state of Victoria—you are shaking your head, Senator Polley.

_Senator Polley interjecting_

_Senator Bilyk interjecting_

_Senator McKenzie:_ Through you, Mr Acting Deputy President: in Victoria, we have evidence from the Assistant Commissioner of Victoria Police, Mr Fontana—and if you want any more details about what the ALP thinks of Assistant Commissioner Fontana, then please see the _Hansard_ of the hearing of the Senate Education and Employment Legislation Committee estimates. Do a search for 'Doug Cameron', and I think you will find some interesting reading.

In the assistant commissioner's evidence to the royal commission, he indicated that outlaw motorcycle gangs, including Comancheros, have been regularly engaged as debt collectors on behalf of the industry. Down where my children grew up, down in South Gippsland, we also have evidence of bikie gangs and organised crime being involved in illicit drugs distribution through the Wonthaggi desalination plant construction. To quote Assistant Commissioner Fontana:

_Victoria Police is concerned that the methods for debt collection in the industry involve criminal conduct such as assault, threat to assault and intimidation._
We have got evidence that the Leader of the Opposition accepted donations from construction companies in his election campaign. Bill Shorten actually cut workers conditions as part of the 2006 Cleanevent agreement.

We have heard so much from those opposite around cleaning contractors. Why don't you get your own house in order instead of coming in here and making these affected claims, rather than actually dealing with the issue at hand?

I have already mentioned Cesar Melhem—and I could go on and on about dear Cesar Melhem, but I will not. Just read the papers and search it. We have the Boral issue on construction sites, again in my home state, in Melbourne. The law is determined by the CFMEU. We have evidence before the Senate estimates committee itself around the treatment of female inspectors by CFMEU officials that is nothing short of abhorrent. And I thank those senators opposite who have actually said 'enough is enough,' because it is. And you need to have a little more conviction around standing up for those in the union movement who are doing the right thing by their members and have more courage about standing up against those in the union movement who are not doing the right thing for those hardworking members, because it trashes the whole brand.

Senator Bilyk interjecting—

Senator McKenzie: Marketing 101, Senator Bilyk, through you, Mr Deputy President. You are trashing the whole brand, and it is very disappointing, because, as I have said, I have worked with a variety of unions in positive ways to secure jobs for regional Victorians and other Australians by actually working together. But we will move on to the bill itself, because it is actually quite fascinating and quite interesting.

We hear concerns that we have not consulted and, when we produced the first report back in December 2013, the Senate Education and Employment Legislation Committee made a variety of recommendations as a result of the evidence. As a result of that, the government has decided to amend the bill.

I do not know what greater example there is of responsiveness to evidence than actually recognising when a good idea comes along. When a good idea comes along we will amend the legislation, and that is precisely what we did. In December 2013—

Senator O'Sullivan: That was a fine amendment.

Senator McKenzie: There were four, and they went to issues exactly as Senator Lines was talking about. If you have somebody heading up a registered organisation who has significant knowledge of financial obligations then there is no reason that we should actually be running that person through a financial training package as a matter of course, just to get the tick in the box. Some people like a tick in the box for no reason, but I do not see why we should actually be wasting the time and money of the person who is very busily volunteering in a trade union or indeed a registered organisation. Many employer groups are themselves run by volunteers, not just by employees. So that was going to be overregulation and an overkill for some people.

We also recommended that the obligation placed on officers to disclose every payment be reduced, with certain exclusions including limiting disclosures to payments made above a certain threshold. So we streamlined a lot of the reporting requirements that were originally envisaged. And that is a good thing because it not only cuts down on the administrative
workload for those volunteers but is also quite consistent with our approach as a government to minimise regulation and red tape for those in the community.

Senator Lines went to the fact that we have looked at this bill a lot, and no-one more than the education and employment committee. I would like to make some brief comments, as it is the opportune time now, on our report brought down this month. It is useful to note that we have actually incorporated the four amendments within the bill. The bill comprises two schedules and seeks to amend the Fair Work Act 2009 and the Fair Work (Registered Organisations) Act 2009 to improve the governance and oversight of registered organisations.

The government's legislative response was in response to the HSU scandal, and it was wonderful to hear Senator Lines put on the record her abhorrence for that particular issue and the impact it had not only on the members of that union but also on the confidence more broadly within the Australian community around the behaviour of union officials. I guess it was in that context that this particular legislative package came forward.

Schedule 1 establishes the Registered Organisations Commission, and it is to be headed by the Registered Organisations Commissioner, which I think would be entirely appropriate. The functions and powers of the commissioner are actually based on those of the General Manager of the Fair Work Commission, as well as those set out in the ASIC Act 2001.

The ALP's claim that if you are making a profit you should be treated differently to if you are not making a profit was really interesting. When it comes to governance, I am not sure the amount of money you are dealing with should be the deciding factor. I think anybody who is presiding over the interests of others, those officials and leaders, should be subject to the same guidelines whether they are volunteers or paid and whether their organisation is a not-for-profit or a profit organisation. And I do not know why the lowest paid workers in our community should not be able to have that sort of confidence in those who seek to represent them.

Schedule 2 is in two parts. Part 1 alters the reporting and disclosure obligations of registered organisations and their officers, increases civil penalties for noncompliance and introduces new criminal offences for the most serious contraventions. I think that is important. I think also what is important is there is no budgetary cost for the government and the arrears estimates and compliance cost for every registered organisation is about $1,270 per year on average. I think for us to secure the confidence of the wider community that trade unions in particular but also other registered organisations are being governed appropriately, that is a small price to pay.

I would also like to respond to claims that there was a lack of consultation. Given the amount of reports that have been generated out of my own committee and the serious consultation that was done by the minister's office in the formulation of this particular package, I am absolutely confident that trade unions were consulted, that the community was consulted and that employer groups were consulted. I refuse to accept from the ALP that the government is simply going about trashing the trade union movement, that there is somehow a sense within the government that when the polls are bad we will pull out our bashing-the-trade-union card. It is simply not the case.

This government—and I have said it many times in this place—is the best friend the Australian worker has ever had. We are serious about ensuring a stable and productive
economy so that the Australian worker can be secure in their job. We are not just looking at
the jobs of today but our competitiveness agenda ensures that we are looking at the jobs for
tomorrow. It is transformative what we are going through at the moment. The technological
advances, the types of strategies we are implementing through education policies are going to
ensure that our workforce going forward is skilled for the 21st century, which is exactly what
we need to be doing.

Labor's changes whilst they were in government were quite good. They went a little way
but they did not go far enough. I think what we are doing is actually giving utter confidence to
the sector more broadly, because we need to restore faith in unions and we need to restore
faith in employer representative bodies. I am really sick of the idea that good legislation,
legislation that wants to deal with the bullying behaviour—the unlawful behaviour of some of
those in the trade union movement—is somehow trashing trade unions. It is not; it is actually
about ensuring that people who go to work everyday are not going to be subject to attack. I
think that is about a fair go for all people in the Australian community. To assume that it is
just some Trojan horse for Work Choices, that this sort of legislation and our legislative
agenda in this area are simply about being the Grim Reaper of Work Choices is simply false.
Look at the evidence coming out of the royal commission or read the papers or be in my home
state of Victoria and look at the behaviour of Cesar Melham, look at the behaviour of the
CFMEU over a long period of time and the impact that has had on public infrastructure
projects. It is not just wasting the taxpayer dollar, it is not just wasting the union members'
dollar and misappropriating it but it is actually wasting—particularly Victorian—taxpayers'
dollars as project after project experiences blowout. It is doing untold damage.

Another comment made by those opposite throughout the course of this debate is that
somehow we roll out the Dorothy Dixers around trade unions whenever the polls are down.
What a joke. We have been asking very good questions on this side of the chamber about the
inappropriate behaviour of some union officials over a long period of time. I do not shy away
from that at all. Throughout the course of a current Senate inquiry into temporary working
visas in my own committee, the Senate Education and Employment Legislation Committee,
we have had very strong representation from a variety of unions around issues with the 417
and 457 visa classes. Specifically, if you log on to the ACTU's website, you will see the
Aussie jobs campaign—it must be preselection time for some people at the moment but it is
still going swimmingly. The issue is, when you actually delve a little closer into the types of
skill shortages that exist across the Australian economy, guess what? It turns out the union
movement is experiencing a skill shortage as well. It is experiencing a skill shortage as we
heard in question time today with a question answered by Senator Cash in a very powerful
manner in response to evidence and questions on notice through the education and
employment committee. Workplace relations advisers for 457 visas are in short supply, guess
where? In trade unions.

**Senator O'Sullivan:** That is cruel.

**Senator McKENZIE:** I know, Senator O'Sullivan. It begs the question: if there are not
workplace relations specialists in the trade union movement, where are they? I guess we just
have to look opposite. We have got ex-workplace relations and union officials in the Senate
Labor Party.
I want to thank those in the trade union movement that are doing the right thing by their membership, that are spending their money wisely and appropriately and that are showing appropriate leadership and restoring confidence. I call those who are not to actually leave the sector so we can restore confidence. All those senators in this place that are interested in ensuring honest government for the Australian worker, please support this bill.

**Senator O'SULLIVAN** (Queensland—Nationals Whip in the Senate) (17:43): I rise to make a contribution to this debate on the Fair Work (Registered Organisations) Amendment Bill 2014 [No. 2] and I am very pleased to see Senator Lambie in the chamber because we know her position on these matters, as she understands the impact that some of this behaviour can have on productivity in places like her home state of Tasmania. I am almost prepared to declare a love for Tasmanians right up there with my Queenslanders.

This legislation is about transparency. It is about accountability. It is about, in this case, some organisations including some trade union organisations being held to account. It is about the duty of care that they have to stakeholders, to beneficiaries of their efforts or victims where there are acts and/or omissions that arise out of the abuse of their power or the abuse of their position.

It includes the story in relation to criminal and unlawful behaviour. What are quite apparent are some shortcomings in the jurisdictional capacity of our nation to deal with this criminal and unlawful behaviour, particularly in those organisations that practise that, which includes—as has been well established in this place—a number of trade unions. Of course, it is about some of these organisations avoiding detection. The way they are doing that is that they are coming in here with their patrons. There are members of the Australian Labor Party and there are members of the Australian Greens who will make every effort in this place to resist this legislation and like legislation, to ensure that we never, ever restore the accountability that is required in such important sectors in our community. I have a fairly thick hide on me, I do not mind saying—but they do so, and there is a thickness of hide, I might say, that I have not seen too often.

First of all they fail to declare their conflict of interest. They fail to declare the hundreds and hundreds and millions of dollars that are pumped into their organisations to see that they are effectively returned to this place, to what is, by any standards, a very well paid, very well supported job. And they do that, it would seem—and we will talk about this a little bit later on—on the back of donations from companies that they have achieved in many instances at the cost of the people they are hoping to represent.

All we need to do as each of the senators makes their contribution—be it from ours or from the other side—is to keep in mind these key principles, these key touchstones. Ask yourself: does that support transparency? Ask yourself: does that support accountability? Ask yourself: will that hold the individuals to account so that their duty of care is taken, or does it leave us vulnerable to a continued abuse of their position and their power?

I want to reflect on the contribution made by Senator Ludwig. I know Senator Ludwig is up in his office now watching my contribution because I have got word that he does that as a matter of practice. What Senator Ludwig had to say—and it was a very, very interesting statement—was that the government is endeavouring to use transparency and accountability as a stalking horse on the unions. That is worth repeating: using transparency and accountability as a stalking horse on the trade unions. He went on to say that the royal
commission was attacking unions, so the royal commission was the Trojan Horse. I know that my colleague Senator McKenzie has very eloquently set out some of the work and productivity work of the commission, and we will come back to that again in a moment.

I want to revisit—because some of the senators opposite were not here when I made a contribution on a separate bill the other day relating to these matters—where I was able to quote a union official who was calling on the Australian Federal Police to withdraw blackmail charges against one of their senior executive. Here is the old story. They say that for one man it is an empty Coke bottle; for the other it is a 5c piece. In this case we had the union official who described the behaviour of his colleague as 'normal negotiating methods'. That was his reflection on the circumstances, but to the Australian Federal Police it was the very, very serious crime of blackmail. I have some personal experience in this space. You cannot have corruption without some element of blackmail being involved. It is the way that people are blackmailed and threatened that if they do or do not do certain things there will be repercussions.

Let us just, if we might, revisit the royal commission. This is the 'stalking horse' that is using transparency and accountability as a stalking horse on the unions. Well, thank the Lord, might I say. Praise the Lord that that is what is happening, when you look at the litany of matters that have been exposed. Of course, these have nothing to do with the 600-plus breaches, offences, that have been prosecuted against a variety of unions and the over $6 million worth of penalties—which, I am instructed, are paid for by the unions, by those people who have secured the penalties against them. This is just a simple way to ensure that the behaviour permeates.

One of my favourites is the fact that Mr Shorten, the Leader of the Opposition and a union man through and through—until you read some of the evidence that was given before this royal commission—accepted a $40,000 donation from a construction company. Now let us just stop there. Unibilt was the company. Let us just stop there. Mr Shorten, representing the interests of his union, accepted a $40,000 donation. That is a considerable sum of money by any standards and probably reflected something about the base wage of some of the individuals that he was representing in this particular circumstance. The interesting thing is that it comes from the construction company. These are the people against whom Mr Shorten is charged with representing the interests of his members. We all know what a union representative does with the employers, and that is to try and get the very best deal for those stakeholders who place their great trust in their union representative, just as stakeholders place trust in the boards of companies—and we are going to make a bit of a comparison later on, because there has been much said about how companies should be accountable but unions and registered organisations should not.

He got $40,000. What did he do with that? Let me think. Did he promote the interests of the union members? The answer is no—and, in case I forget to answer one of my own questions, we will just take a standard no for all of them. Did he put it to the welfare of the members? Did he put it into a fund? Was there any sort of benevolent application of that? That would be no, no and no. Did he distribute it? He has just achieved something off the employer, which is what he is charged to do. Did he distribute it to the members? No. Let us not continue with the mystery. What did he do with that? He paid the wages of people in his election campaign, the wages of his election campaign director. So, in an abuse of his position
on behalf of the members that he was representing, he took off the enemy—if you listen to the Labor Party—off a corporation over which he was exercising—

Senator Polley interjecting—

Senator O'SULLIVAN: I know it is unpleasant—through you, Mr Deputy President. I do understand this is unpleasant and I am trying to keep my remarks as measured as I can, because I have been known to sort of embellish on occasions—but not today. Mr Shorten took the money and he paid the wages of his campaign director.

Senator Polley interjecting—

Senator Bilyk interjecting—

Senator O'SULLIVAN: If one of you is going to make a contribution—I say this through you, Mr Deputy President—it will be your chance to condemn these activities, something that you have never done. I have listened to hundreds of hours of contributions in this space, particularly about the CFMEU, and not once, not for one nanosecond, have I heard you make a contribution to condemn the behaviour—not just the unlawful, fraudulent behaviour but the behaviour as particularised by my colleague earlier in relation to threats, intimidation and evidence about outright assaults. Not once have I heard anybody make a contribution from the other side where they have used the word 'transparency'. Sorry; in the interests of being fair, I did hear Senator Ludwig use it. He talked about transparency and accountability, as a stalking horse, but, that contribution aside, I have not heard anyone on that side of the chamber use the words 'transparency' or 'accountability'. I have never heard any reference about being held to account or any reference to a duty of care—nothing. Most particularly, I have not heard you condemn the behaviour of this absolutely criminal organisation known as the CFMEU, about which this parliament, this Senate, has been endeavouring to bring measures into play so that we can regulate their behaviour, for the people who are affected by their behaviour—who are your constituency largely, members of that trade union. The day that I hear that, the little bit of hair I have got left will fall out.

So Mr Shorten accepted $40,000. Did he disclose that? Yes, he did disclose it, but it was only two days before he appeared before the royal commission—48 hours. Mind you, it had slipped his mind for eight years. But, two days out, 48 hours out, Mr Shorten finally—I use the words 'came clean'; you might use some other words. He heard the galloping hooves. He looked over his shoulder, and there was that stalking horse coming at him, with its teeth bared and its mane flowing in the wind, and what did he do? He ran straight into the Electoral Commission office to hide from the stalking horse and deliver up his declaration of this money. It was pathetic.

Senator Polley interjecting—

Senator Bilyk interjecting—

Senator O'SULLIVAN: I hear you. I do not know what you are saying because I am busy making my contribution but—this is how clever I am—I can talk this loud, not listen to you and know that you have not used the words 'transparency', 'accountability', 'held to account', 'duty of care', 'abuse of power', 'criminal or unlawful behaviour' or 'avoiding detection for eight years with only two days to go'. That was real skin-of-the-teeth sort of stuff, right?

Senator Bilyk: You're a good storyteller!
Senator O'SULLIVAN: I am a good storyteller, so sit quietly, kick your shoes off and lie back. I have got about six minutes to go.

What have we got here? We would like to see these organisations have a tighter regulatory environment, a well-resourced commission or, in this case, changes to the law that will allow us to be able to bring them to account, including the increasing of the penalties and the introduction of criminal offences very similar—listen up—to those for corporations, who have got a very similar role. Corporations have a responsibility, a duty of care, governance obligations and fiduciary duties to their shareholders. The shareholders' interest in the corporations is a financial one. Let us step over into the shoes of the union members. They have an organisation which is very similarly structured, in that people are elected into their positions, as with a board of directors.

Senator Polley interjecting—
Senator Bilyk interjecting—

Senator O'SULLIVAN: There are some notes on this if you guys are a bit distracted there with your conversation. I will have my office send you round some of my notes in case you have missed some of the contribution.

Senator Bilyk: Please don't bother.
Senator O'SULLIVAN: I am sorry?
Senator Ian Macdonald: That's very helpful.

Senator O'SULLIVAN: I am that sort of fellow, Senator Macdonald. You know that. I will bend over backwards to help my colleagues from across the way here. I will tell you why. I have employed hundreds and hundreds and hundreds of those souls who pay their union dues into your organisations so that it can make it into your account and get you here into the Senate. Why would they support anyone into the Senate? I will tell you why.

Senator Polley: That's outrageous!
Senator O'SULLIVAN: No. It is a fact. It is on the public record. Why would they want you in here? It is because they have the honest but mistaken belief that you are going to contribute to decisions in this place—

Senator Polley interjecting—
Senator Bilyk interjecting—

The DEPUTY PRESIDENT: Order!

Senator O'SULLIVAN: I can hardly hear myself talk, Deputy President—that you will make contributions in this place to the productivity of this nation, that you will make decisions that will allow us to get productivity up. Do you know what comes with increased
productivity? Jobs come with increased productivity. Do you know what happens when people have jobs? They get money—

Senator Polley interjecting—

The DEPUTY PRESIDENT: Senator Polley, I have been trying to call senators to order. I would ask you to cease interjecting. That goes to both sides. Interjections from both sides are disorderly. If we could hear the rest of Senator O'Sullivan's contribution in silence, that would be convenient for the conduct of the Senate.

Senator O'SULLIVAN: I am deeply appreciative, Deputy President. An increase in productivity means an increase in the fortunes of the company and its ability to employ more people and it ability—indeed, not just ability but a responsibility that they take very, very seriously—to pay more tax into the receipts of the nation. What do they do when all that is happening? They get a lot of confidence. Sometimes they borrow money and sometimes they will branch out and invest in new ventures. Again, what does that require? It requires more jobs. It requires more investment which generates more income, more profits, more jobs and more receipts to the nation. What happens when the nation gets blessed with good receipts? Well, Jiminy Cricket, I can only speak for our side of the parliament. The coalition invest it principally in infrastructure—that is what we do. Of course, we spend a couple of years trying to reduce debt; to get the trajectory of the economy back in order when we come to government. Eventually, we spend it on infrastructure, as we are at the moment. There is a $50 billion infrastructure program out there. That is more jobs, that is more wealth, that is more receipts, and on and on it goes—it is a cycle.

I will tell you what is the danger to the cycle. The danger to the cycle is corruption. The danger to the cycle is where you have organisations, little fish in a tiny pond, who can impact on the performance. If a job closes down for one day, it can cost $100,000. If a job shuts down for a week or 10 days, that may well reflect 100 per cent of the potential net benefit of that employer and then jobs are lost—they go to the wall. Senator Ludwig, you betcha we are going after transparency and accountability; you betcha. That is right at the fore of our mind and on the tip of our tongue. I really do not fear, and nor should the union movement or any other organisation, transparency and accountability.

My advice to them is very simple. If they hear the galloping horse coming up behind them—

Senator McKenzie interjecting—

Senator O'SULLIVAN: That is our stalking horse. It is coming up to ensure that what they do is lawful, that what they do is directed in the interests of their members, that they are meeting their governance obligations and their fiduciary obligations, and that they are meeting their obligations to the national interest. They are in a position where they can affect the national interest if they affect the confidence that is in the construction authorities around this country. I urge colleagues, and I know it might be lost on some on the other side, to put the national interest, the interests of employees in this nation and the interests of the progress of this nation, before their own interests on this occasion and support this legislation before the Senate.
Senator IAN MACDONALD (Queensland) (18:04): I have been encouraged to enter this debate by the first speaker for the opposition, Senator Cameron, who gave an emotional address that was big on rhetoric, big on misrepresentation and big on self-interest as a former union heavy but lacking any sense, lacking any truth and lacking anything that would help to serve the best interests of the workers of Australia. It was a typical speech of a union hack at a union meeting. But it is not, unfortunately, what is required in this chamber, where we actually debate facts.

Most of the Labor members who have spoken in this debate today are themselves former trade union operatives, former trade union officials or sons, daughters, husbands or wives of trade union officials. As I said before, there is nothing wrong with that if the trade union movement was at all representative of workers in Australia. But only 17 per cent of all workers in Australia choose to join a union. Within the government sector, that figure gets up to 42 per cent. Living in this town for some of my life, I can well understand and appreciate that. More importantly, of workers in the private sector, only 12 per cent choose to join a union.

Who is in the private sector? Can I suggest that the industries that are run by private enterprise include the coalmining industry in Australia, and all of those workers in the Bowen and Galilee basins up where I come from who provide the wealth of our country. But of those people, only 12 per cent across the board choose to join the union. What else might be a private industry where only 12 per cent of employees choose to join a union? It is all the other mining industries—iron ore, zinc, copper refineries and the nickel refineries in the town where I have my base in Townsville.

They are all private sector investment, private sector employers. On average across the board, only 12 per cent of their workers choose to join a union.

What else is in the private sector? The car making industry. Any manufacturing industry in Australia. Any transport industry in Australia—and there are people in this chamber who claim to represent the manufacturing workers and the transport workers. Of those people, because most of them are in the private sector, on average across the board only 12 per cent choose to join the unions.

Yet the people sitting opposite us, most of whom are only here because of the trade union movement and the influence they have on the Labor Party, represent less than 20 per cent of the total Australian workforce and less than 15 per cent of the workforce in the private sector. You do not have to think about this too deeply to work out that of this small group of Australians in the private sector—workers or representatives of workers in the private sector—only 12 per cent of them join a union. But the unions have enormous influence in the Labor Party.

I have mentioned before that, of those in the Labor Party in this house, most of them are only here because of the union movement—that is, the union movement representing no more than 17 per cent of the total number of workers in Australia. Half of the current federal ALP MPs and senators have had a paid position in the trade union movement. This includes 23 of the 55 ALP lower house MPs and 17 of the 25 ALP senators. More than half of the ALP frontbench at the current time—22 out of 43—are former union officials.
Of the 26 current members of the ALP's national executive, which is the chief organisational body of the Australian Labor Party, 19 are current or former union officials. As I say, that is fine if the union movement was at all representative of the Australian worker, but it represents fewer than 17 per cent of all workers in Australia. That means that 83 per cent of all workers in Australia choose not to join a union. And yet the alternative government, who is here solely at the behest of that 17 per cent of Australian workers, claims to represent the working men and women of Australia. Clearly, that is a false assertion.

If you heard the speeches here today, you will understand why all the former union organisers are so totally opposed to any legislation that requires accountability and transparency. You do not need to go to the royal commission; this has been obvious for a long period of time. The former colleague of many of the members of the Labor Party, Mr Craig Thomson, proved to us without a royal commission just how corrupt certain elements of the trade union movement are.

I am not anti-trade unions—and in fact at one stage I worked very closely with an element of a big trade union movement. We fought together for three years against the Labor Party, I might say, to protect the jobs of Tasmanian timber workers. That was the forestry division of the construction mining forestry workers union, the CFMEU. But at that time, the forestry section, and I emphasise just the forestry section, worked very closely with me—and I was then a minister in the Howard government—to make sure that we protected the jobs of Tasmanian workers.

Those who were around in the 2004 election will remember that, I think, the seminal turning point in the 2004 election campaign was when those forestry workers organised by the F-part of the CFMEU, came together in Launceston and provided the backdrop for the then Prime Minister, Mr John Howard, as he addressed the workers of Australia. They were all there in their high-vis and helmets. Mr Howard addressed them and told them that he and the Liberal Party would be sticking up for workers.

As a result of that, the people of Australia, not only in Tasmania, voted for John Howard and his Liberal Party because they understood that it was the Liberal government that was interested in worker's rights, not the Labor Party. They had made the decision—and I know Senator Lambie will be interested in this—to abandon workers in the forestry industry and get on board with the latte left set in Sydney and Melbourne.

At that time, the F-section of the CFMEU worked in workers' interest. I have every respect for them and I have every respect for the then boss of the forestry section of the CFMEU, Mr Michael O'Connor. I class Mr O'Connor as one of my friends. I think he is a nice guy and an honest guy, but he is now the national head of the CFMEU. Clearly, he does not have control over the CFMEU as he did over the forestry division of the CFMEU. I know that Michael O'Connor would not be interested in organised crime, the Comancheros, the threats and the bullying of women particularly, and the abuse of members of the CFMEU in relation to those matters. I know Mr O'Connor would not be involved in Mr Shorten's close friend Cesar Melhem's false invoices issue.

So there are elements of the trade union movement that I respect and that I know, and I have in the past worked closely with them. I am sure that the old forestry section of the CFMEU would have no problem with this bill because all it requires is transparency and accountability—the sort of transparency and accountability that applies to corporations, as it
should. This bill is all about providing for workers, whose money the unions manage, the sort
of accountability and transparency that we are required to have in public office around
Australia in the various state parliaments and in this parliament. We have that accountability
and transparency. Corporations have that transparency and accountability. Why not trade
unions? I know that decent trade union officials—who, as I say, I have worked with—would
have no objection to that. They do not mind telling people what their salaries are, what
conflicts of interest they may or may not have and what other entitlements they might get out
of their work as a union official.

I cannot understand people like Senator Cameron who violently oppose any transparency. I
say to Senator Cameron and Senator Ludwig and to anyone else who has spoken in this
debate: what have you got to hide? I am not suggesting that you have anything to hide, but
then why not have an open and transparent regime that exposes and leaves you beyond
reproach, beyond question, for the 12 per cent of Australian workers who choose to join your
union?

As I say, I have nothing against unions. I do have a problem when various Labor
governments insist that public servants have to join unions or that they have to provide their
details to unions so that unions can approach them to be members. That is probably why some
42 per cent of public sector employees are in the unions—because they are more or less
compelled, when Labor governments are in power at state or federal level, to disclose their
details so the union organisers can get around and embarrass or intimidate them into joining a
union.

With regard to the private sector, perhaps there are some Labor people speaking after me in
this debate—I do not think there are, but I wish there were some—who could explain to me
how they claim to represent the working men and women of Australia when effectively they
represent less than 12 per cent of those in the private sector. Of all miners in Australia, all
manufacturing workers in Australia and most transport workers in Australia, less than 12 per
cent of them choose to join the union. Yet you have all the union hacks over on the other side
saying that they look after workers' interests; they know what the transport workers want; they
know what United Voice wants. They know what these workers want, and yet the workers
vote with their feet. Even United Voice or whatever the Public Service union is—

Senator Payne: It is the CPSU.

Senator IAN MACDONALD: The CPSU. Even of those, only 42 per cent choose to join
a union. Every time a Labor politician gets up and says, 'I represent the working men and
women of Australia,' I say to myself, 'You represent less than 12 per cent of them in the
private sector and less than 17 per cent across Australia.'

It is the working men and women of Australia who time after time—and I mentioned the
2004 election—have returned Liberal governments because they do not trust the unions
either. If they trusted them, if they thought they were doing anything for the working men and
women of Australia, they would probably join them. They would probably become members
of the union, but they do not because (a) they think the unions do nothing for them; (b) they
think the union officials do everything for themselves, and we have had a lot of evidence
about that; and (c) they do not believe that they are on the right track for the interests of
working people in Australia. And those working people of Australia vote for Liberal
governments, not for Labor governments. This is an important factor, which I repeat often and
will repeat more often because I get sick and tired of Labor senators getting up and saying that they represent the working people of Australia when clearly they do not. Clearly they do not! Less than 12 per cent of private sector workers choose to join the union.

A lot of those workers do not join the union, because they look at people like Craig Thomson and say, 'We are not going to pay our money so that some union hack, some union official who was supported by the Labor Party into this parliament, can cheat us, can rob us and can use our money for his own personal gratification and gains.' That is why people do not join the unions. If this legislation were passed and unions were more accountable, perhaps some of that 88 per cent of workers in the private sector who choose not to join a union might say, 'Well, now that the union industry is open and accountable, we might join because we now know that they are honest because we have the transparency and the accountability mechanisms to see that they are looking after our interests and not after their own interests.'

I say to anyone else taking part in this debate: do not be misled by anything Labor Party politicians tell you on this debate, because they represent less than 12 per cent of private sector workers.

You might ask yourself why that is so. It is because those private sector workers know that the union officials, by and large—there are some exemptions, and I have mentioned one case—are in it more for their own interests rather than the interests of the workers they serve. That is why 88 per cent of workers in the private sector choose not to belong to a union. Listening to Labor Party people talk you would think that they represent every single working man and woman in Australia. Clearly they do not. And I can assure the Senate—because I know, and the election result proves it—that workers in the forestry industry in Tasmania voted for the Liberal Party when the Labor Party abandoned them and left them to rot on the unemployment rubbish heap.

This bill, when it is passed, will help the unions. It will allow workers to understand that the unions are accountable and transparent. I would have thought that any genuine union official would be out there supporting this bill, because it could mean that more Australian workers would have the confidence and the trust to join a union. This bill will give Australian workers confidence and trust in the union movement, and that is one of the reasons that it should be supported.

Senator LAMBIE (Tasmania) (18:24): I rise to once again contribute to a debate on the Fair Work (Registered Organisations) Amendment Bill 2014 [No. 2]. Like many speakers I note that a form of this legislation was presented to and voted down by this parliament before. A Parliamentary Library brief on this new version of the legislation says:

The Fair Work (Registered Organisations) Amendment Bill 2014 [No. 2] (the current Bill) is virtually identical to the Fair Work (Registered Organisations) Amendment Bill 2014 (the previous Bill) with the Government amendments which were agreed to in the House of Representatives. The previous Bill was negatived in the Senate on 2 March 2015.

That Bill in turn was similar to the Fair Work (Registered Organisations) Amendment Bill 2013 together with Government amendments which were tabled (the original Bill).

I also note that the Parliamentary Library brief says:
If the current Bill is passed by the House of Representatives and rejected by the Senate, it could constitute grounds for dissolution of both houses and a general election.

... ... ...

A Bill must fail twice in the Senate to become a 'trigger' for a possible double dissolution election. It may be re-introduced at any time within a Parliamentary term, but there must be a minimum interval of three months between the first failure in the Senate and the passage of the Bill in the House of Representatives the second time.

The Abbott government have presented this bill to this Senate knowing that they have very little chance of it being passed. Indeed, they want it to fail because the presentation of this bill, as indicated by the library brief, is a trigger for a possible double dissolution election.

Given the polls, I doubt that they would go to a double dissolution election, especially when the Victorian president of the Liberal Party, Michael Kroger, conceded on Sky TV that my political network, the JLN, in a double dissolution would pick up two to three senators in Tasmania alone. Michael further conceded that in an ordinary election their polling indicated that it was likely that the JLN could win an extra Senate seat in Western Australia and Queensland—and I can say that he did not want to talk about Victoria at all. So it is clear that the presentation of this legislation is a political stunt, in the knowledge that it is a trigger for a possible dissolution election. While it would be political suicide for the current Prime Minister if the current Prime Minister went to the Governor-General and asked for an early election, that does not mean the opinion polls would not change very quickly if a person like Mr Turnbull, Ms Bishop or Mr Morrison led the Liberal Party in the nation.

If the Liberal Party really wanted this legislation to pass, they would have been willing to meaningfully negotiate with the Senate crossbenchers—but they just do not get it. They refused to sit down and deliver the reasonable requests that we put to the government on behalf of our constituents. The best example of the government's refusal to talk in a meaningful way with the Senate crossbenchers is this morning's defeat of their ABCC legislation. This is legislation I offered to support if the government agreed to a couple of reasonable requests contained in a letter I sent to the Prime Minister before the second reading or substantive vote was taken in this chamber. I will quote from my letter to the Prime Minister as it directly relates to the provisions in the Fair Work (Registered Organisations) Amendment Bill 2014 [No. 2] which aimed to clean up corruption in the union movement. It is also affected by the royal commission examining union governance and corruption. I quote:

Dear Prime Minister,

Thank you for your letter of reply dated 12 August 2015 regarding the confidential volume of the interim report of the Royal Commission into Trade Union Governance and Corruption.

I seek leave to table the Prime Minister's letter to me.

The DEPUTY PRESIDENT: Is leave granted?

Senator Payne: Mr Deputy President, in the normal course of events a senator would make whatever they wished to table available to colleagues before seeking to table it, so that we are aware of whether it was meant to be a confidential document and we are aware of its nature. I am happy to have a brief look.

The DEPUTY PRESIDENT: I can only ask if leave is granted. I think what you are indicating to me is that you are not granting leave at this point in time.
SENATE
Monday, 17 August 2015

Senator Payne: Correct.

The DEPUTY PRESIDENT: Leave is not granted, Senator Lambie. But the minister at the table has indicated that they may consider that if they have an opportunity to look at the document.

Senator LAMBIE: I will continue quoting from my letter that I sent to the Prime Minister. In that letter I said:
While I acknowledge your point that Commissioner Heydon AC QC recommended that this volume be kept confidential in order to protect the physical well-being of Royal Commission witnesses and their families, do not accept the assumption that Royal Commission witnesses and their family's well-being would be compromised should crossbench Senators be granted access to the volume under the normal secrecy provisions followed for access to other highly sensitive documents.
There are plenty of precedents and procedures in place—

The DEPUTY PRESIDENT: Order! It being 6.30 pm, this debate is now interrupted. The Senate will suspend until 7.30 pm and I think at that point in time I may ask the Acting Deputy President at the time to put the question again about leave for that document to be tabled and then you will be able to continue with your contribution, Senator Lambie.

Sitting suspended from 18:30 to 19:30

The ACTING DEPUTY PRESIDENT (Senator O'Neill): I understand Senator Lambie was seeking leave to table a document prior to dinner.

Leave granted.

Senator LAMBIE (Tasmania) (19:30): I will continue quoting my letter to the Prime Minister:
There are plenty of precedents and procedures in place for safely managing highly sensitive information and protecting witnesses' well-being—while still allowing Senators access to vital information which allows them to properly scrutinise executive government's actions and carry out their free and fair performance as Members of the Upper House of the Australian Parliament.
I note that since I received your letter, strong evidence has emerged which indicates the probability that Royal Commissioner Heydon, in accepting a key speaking role at a Liberal Party fundraiser, unless he resigns first—that he will be found by a higher court to have exhibited a form of bias.
Please note that I have called for Commissioner Heydon to resign from his position, because based on the facts, it will be impossible for the great majority of Tasmanians not to have the impression that he is biased.
In light of this information and the fact that Royal Commissioner Heydon has shared his confidential volumes with all state Premiers and their staff, I invite you to reconsider your refusal to allow crossbench Senators to have access to the Commissioner's confidential report.
I'm sure you'll agree that crossbench Senators are just as trustworthy as State Premiers, with confidential information.
And that there is no logical reason for the Royal Commissioner or yourself to deny access to his confidential report—given that it's been shared with all of Australia's State Premiers and their staff.
Especially when all of the report's information is needed to make an informed decision on whether to re-establish the Australian Building and Construction Commission.
With regard to the re-establishment of the ABCC, my view has shifted after I've conducted interviews with key stakeholders and re-examined the public record which you refer to in your letter.
I'm prepared to support your ABCC Legislation currently before the Parliament under these simple conditions:

1. All crossbench senators and senior staff are given access to the Heydon confidential report after following the usual strict protocols of signing non-disclosure agreements and giving undertakings that no information will be electronically recorded or notes are taken.

2. Your Government deregisters the CFMEU. As you point out in your letter "The Commissioner draws particular attention to the behaviour of the CFMEU concluding there is a culture of wilful defiance of the law which appears to lie at the core of the CFMEU."

I agree that strong measures must be taken to remedy as you describe "widespread unlawful conduct in the building industry".

And after research over the last few months, including meeting with CFMEU leadership, ordinary members and businesses who have been adversely affected by unlawful conduct in the building industry— I'm at a loss to understand why you haven't taken the obvious, targeted, logical step of deregistering the CFMEU already.

Your inaction stands in stark contrast to the actions of the Fraser and then Hawk governments which deregistered the CFMEU's predecessor—the BLF.

This is a matter I raised in the Senate last week during question time and your representative Senator Abetz still failed to explain your lack of action and your weak approach to tackling lawlessness in our construction industry.

I was pleased however that he found my proposal to deregister the CFMEU "interesting" and after informal talks with fellow crossbench Senators, I'm of the view that you would have a greater chance of passing Legislation which deregisters the CFMEU than legislation which re-establishes the Australian Building and Construction Commission.

Your legislation has been likened to using a sledge hammer to crack a walnut, rather than a more targeted and surgical approach that de-registering the CFMEU already.

Your legislation has been likened to using a sledge hammer to crack a walnut, rather than a more targeted and surgical approach that de-registering the CFMEU already.

I consider your offer to arrange a confidential briefing by a senior officer in your department on the Heydon confidential volume an insult and affront to the people of Tasmania.

I'm stunned that you think that by offering me a confidential interpretation of the Heydon secret report by one of your staff—which I will not be able to talk about in the Senate—that I'm then able to make a properly informed decision when it comes to your ABCC legislation.

I'm also stunned that you think your personal assurances and promise that the Heydon confidential volume "does not contain any reference to political corruption or any matter that would harm the reputation of the Liberal party"—actually influences my opinion and actions. Unfortunately, because of your long history of broken promises and mistruths, for the best interests of Tasmanians, nothing that comes out of your mouth means anything to me.

What matters is your actions and they—in this case, unfortunately show that you and Commissioner Heydon are unreasonably determined to stop crossbench Senators from accessing all information contained in the Royal Commission's secret volume. Your tricky and obstructionist behaviour is interfering with my and other Senators' free and fair performance as Members of Parliament.

Should this obstruction remain and this contempt of the parliamentary process continues—I will be forced to take all steps available to me under Standing Orders to hold you and Commissioner Heydon to account in the Senate.

In closing, I note that you closed by indicating your "government is committed to doing all that is necessary to reform the building and construction industry and to reinstate the rule of law in this
sector." That statement is clearly false. Your government's inaction on CFMEU deregistration and Senator Abetz's reply to my question on notice last Tuesday proved that fact.

He could not properly explain why your government, unlike previous Liberal and Labor governments, has not moved to deregister a union which you describe as "continuing disdain for the law". It's time to stop talking tough and follow through with effective action. Take that first step and arrange for Commissioner Heydon's confidential report to be viewed under appropriate security conditions by all crossbench senators.

I look forward to co-operating with you and cleaning up not only the building and construction industry—but the Financial and Banking sectors and Health system of frauds and criminals.

Yours Faithfully

I have spoken about this to the Senate before but it is worth repeating again. Unlike members of the Liberal Party in the Senate, including Senator Abetz, I do not have an ingrained hatred for members of unions. I acknowledge that, on balance, the union movement in Australian has been an agent for positive change and has protected and strongly advocated for the rights of working Australia families. If we did not have unions and organised labour and their fights for better wages and conditions, Australia would be a poorer, less fair country. However, yes, I also acknowledge that the unions, just like the corporate world, have had their fair share of fraudsters, crooks and standover men who have ripped off their members and committed shocking crimes to satisfy their own greed and lust for power. Of course there is an ongoing need to monitor, investigate and enforce our laws wherever crime and corruption are found.

Within many organisations, whether they be government departments, political parties, corporations or unions, wherever there is a concentration of power and money, the risk for criminal or unethical behaviour increases because, as we all know, if you are human, power corrupts and absolute power corrupts absolutely. However, the problem I have is that, when the Liberals say they want to apply corporate standards of regulation to the unions, Australian corporate standards are not all that flash. You only have to look at the corruption in one of the Liberal Party’s biggest election donors, the banks, to realise that Australian corporate standards are about as good as the standards and regulations governing the Australian union movement.

At this stage of the debate, without all the facts from the royal commission, what is before us is the destruction of basic civil rights by this Liberal government, while they suck up to their political donors and put them on the back for corporate standards which they clearly lack. I believe that an equitable solution to corruption in the workplace and broader Australian society is the establishment of a permanent corruption watch dog whose star chamber power will apply to bankers and union members equally. Combine that body with reformed world’s best whistle blower or public interest disclosure laws that protect, encourage and reward genuine whistle blowers to come forward, then corruption in the workplace, corruption in government departments, corruption in the board rooms and corruption in political parties would finally be properly addressed.

This legislation can easily be viewed as an ideological attack on Australian workers. It is part of a Liberal Party attempt to silence and weaken those who advocate on behalf of workers. Once this Abbott Liberal government silences workers, it becomes easy to exploit and steal money from them and not only to steal money from them but to sack them and, for base political reasons, to have them replaced by cheap, compliant foreign workers.
It came as a hell of a shock to me and to many average Tasmanians, but I now understand, after talking with Maritime Union members and Caltex officers, that both Labor and Liberal governments have made rules which allow our big oil and other associated companies to legally sack 36 Australian maritime crew and replace them with foreigners on their tankers.

This Liberal government has decided to kill off the jobs of 45 defence clothing manufacturing workers because the defence minister has decided not to place further orders with the Workwear Group, resulting in the company announcing that union members will lose their jobs in September. This government has a budget of $100 million a year, $50 million used to be spent on making uniforms in Australia, but now the Liberal Party is happy to have all our defence combat uniforms made overseas—because it means fewer Australian union members.

In closing, I offer this challenge and advice to all political parties who want to clean up union corruption: support my call to de-register the CFMEU, give a guarantee that their money will not be accepted in political donations until this mess is cleaned up. I oppose the legislation before the house because it is ideologically motivated, unfair, and irrational and undermines the basic civil liberties and rights of Australian workers, while ignoring tens of billions of dollars in fraud, tax evasion and crime in the banking, finance, medical and other industries where multinationals have great influence.

Senator SESELJA (Australian Capital Territory) (19:42): I will respond briefly to some of Senator Lambie's contribution before I move to other aspects of the Fair Work (Registered Organisations) Amendment Bill. It is good that Senator Lambie acknowledges that there is serious corruption on our construction sites and in other parts of union activity. Issues around deregulation are certainly worth rising. I am not sure of the legalities of that. I would have thought it would need the support of parliament, although I could be wrong; obviously, it is not simply within the remit of government to make a decision like that. Whether or not support from the parliament would be there is an open question.

In relation to this bill, to say that you acknowledge some of the corruption—and some of Senator Lambie's contribution suggests that—but then to vote against this bill is to try to have a bet both ways—saying that you are against corruption but you will not support any serious penalties that would help prevent it. Let us be clear: when it comes to issues in Australian building and construction, obviously deregistration of one union, which is Senator Lambie's preferred option, does not actually address the issues. In the past when unions have been deregistered, they have come up again in a different form and as a new entity. The rule of law should be that, regardless of whether it is the BLF, the CFMEU or any other entity representing construction workers, to the extent that they represent those workers well, they should be protected by the law. They actually have a special status under the law at the moment, and that would continue. But, of course, to the extent that they misuse that status and to the extent that they engage in the kinds of practices that we have seen outlined at the royal commission and well before that, they should have the rule of law applied to them.

You should not just be able to make it a financial decision, which is what, unfortunately, organisations like the CFMEU have made at times. They are prepared to wear the fines because they see more benefit in breaking the law, knowing what the maximum fine is. I think that to sit here and say that you are against those kinds of practices but then actually to vote against any sort of reasonable sanctions and penalties simply does not make sense.
What I wanted to do was just go through what the bill actually does and then, of course, talk about some of the practices to which we want to see serious penalties applied. It is why we believe it is important that we actually have proper sanctions. And just finally on Senator Lambie—she talked about corporate criminals being held to account. The reality is that the Fair Work (Registered Organisations) Amendment Bill is actually about saying that those in some of these organisations, like unions and employer groups, should have similar penalties, or the same penalties, to those that apply in the corporate sector. If you actually want to be fair dinkum in saying that it should be the same—whether it is wrongdoing in the corporate sector, in a union or in another registered organisation—then I agree with that. That is what this bill does. If you actually believe that, you may well support this legislation because that is exactly what it is designed to achieve.

It says that this type of wrongdoing, in whatever form, should be dealt with similarly—with serious penalties. I do not care if you are corporate crook or a union crook. If you are doing the wrong thing—if you are deliberately breaking the law or if you are not complying with your duties at law—then you should have the same penalties, regardless of whether you are representing workers, shareholders or anyone else. That is what this legislation is about. So let's not pretend that this is about one versus the other. This is actually about applying a level playing field to wrongdoing. It is extraordinary to me that people can come into the Senate and argue that when the Craig Thomsons of the world do the wrong thing that they should be treated with a lesser penalty—

Senator Conroy: And the Kathy Jacksons—your friend!

Senator SESELJA: Well, Kathy Jackson. Do you want to say it's Kathy Jackson or Craig Thomson? If you are found guilty—and I am not sure that Kathy Jackson has been found guilty of anything. Craig Thomson has.

Senator Conroy: She's declared bankruptcy to avoid the decision.

Senator SESELJA: We have the interjections from Senator Conroy, but this is for anyone who is found guilty of wrongdoing. I am not aware whether Kathy Jackson has been—I do not believe she has. But whether it is Michael Williamson or Craig Thomson or anyone else—whether it is a corporate crook who is found guilty of doing the wrong thing—

Senator Conroy: She's declared bankruptcy to avoid it.

Senator SESELJA: Sorry—we are actually talking about serious penalties here. What you are saying is that there should be a different sphere, where if you rip off the workers you should not pay the same sort of penalty as if you rip off the shareholders. I actually think that if you rip off the workers then surely it should be a penalty that is just as high. What the Labor Party is arguing today, and what the Greens and others are arguing, is that ripping off workers is worth a lesser penalty. That is what they are saying, because that is actually what this bill addresses. They are saying that workers being ripped off by their representatives should bring a lesser penalty, that it is not as bad as if you rip off the shareholders. How do you justify that? How do you justify that to your community?

Those who claim to represent the workers are saying, 'Well, look—it's fine. We know that those union officials were meant to represent the workers, but when they ripped them off it was not as bad as when that corporate crook ripped off the shareholders and the creditors.' In my opinion, that is actually putting the workers below those others. That is what the Labor
Party is doing today. They are saying, 'Your rights don't matter. You've paid your union fees, you've expected fair representation and you've expected those union fees will be used for the purposes of representing you and not for feathering the nests of some of those who represent you.' And here we have a piece of legislation that would actually hold some of those people to account if they do the wrong thing—and we are talking about knowingly doing the wrong thing. We are talking about people who set out to rip off those who they represent. Well, I say that if you are a union crook or a corporate crook then you should be treated in the same way. You should have the law applied to you fairly. Those who vote against this legislation are, of course, denying that.

That is what this does. This bill would establish an independent watchdog with enhanced investigation and information-gathering powers to monitor and regulate registered organisations. Of course, we already have ASIC, which has those kinds of powers. It will strengthen the requirements for officers' disclosure of material personal interests in related voting and decision-making rights and charge grounds for disqualification and ineligibility for office. It will strengthen existing financial accounting, disclosure and transparency obligations under the Registered Organisations Act by putting certain rule obligations on the face of the RO Act and making them enforceable as civil remedy provisions. It will increase civil penalties and introduce criminal offences for serious breaches of officers' duties, as well as introduce new offences in relation to the conduct of investigations under the Registered Organisations Act.

Now, what part of that is objectionable? There has been very little in this debate that would provide a rational, coherent response to that question. What part of those provisions is objectionable? They claim some ideological divide. What they are doing is making an ideological divide, where they say that workers being represented should hold their representatives less to account—and that the law should hold those people less to account—than those who are representing shareholders. Because those who are representing shareholders already have these obligations.

Let's just remind the Senate of what the Labor Party's position is on this, backed by the Greens. Of course, the Greens increasingly draw their funding from unions. They often talk about donations and how that affects things. Well, of course, we know that the Greens are funded by the unions almost as much as the Labor Party are these days—they are indeed.

They are saying that, if they—their funders, the union representatives, the union bosses—do the wrong thing, if they fail to properly represent their members, if they fail to comply with the law, then they should just have a little penalty, they should just have a slap on the wrist. They are saying that, if they do the wrong thing, they should have the kind of penalty that we see applied to the CFMEU often, and which they ignore because they can pay the fine; they have the financial resources to pay the fine, time and time again, so they keep engaging in the conduct. You are holding the representatives of workers to a lesser standard than the representatives of shareholders.

So let's go to some of what is being defended here. Some of what is being defended here and some of what we have seen emerge at the royal commission needs to be exposed. It has been exposed in part, but we need to highlight the type of behaviour that we are talking about. Senator Lambie said she does not hate union members 'like some members of the Liberal Party do'—and that statement about Liberal Party members is simply not true. Some of us
have even been members of unions, and when we have been members of unions we have expected they would do the right thing. And many do—in fact, most do. And those that do the right thing would have nothing to fear from legislation like this. If you go out there and you represent your members to the best of your ability, if you work hard to get them the best deal, then you would actually welcome legislation like this. And, if there is someone dodgy working in the next union, maybe someone you do not know about, then they should be held to a high standard when they do the wrong thing.

We have seen too many examples to say that we should not have a legal response—because that is what this is about. It is about saying: is there a reasonable legal response to this issue? We say there is, and we put this legislation forward to simply level the playing field. But let's look at some of the examples of what we have seen in the royal commission.

We have seen that CFMEU officials Brian Parker and Darren Greenfield consorted with underworld crime figure George Alex, whose friends and colleagues include Mick Gatto, former Comancheros, senior Rebels bikies, standover man Vasko Boskovski, recently murdered career criminal Joe Antoun, and famous ISIS jihadists Khaled Sharrouf and Mohamed Elomar. These are some of the connections we are seeing. We have seen Comancheros being used as debt collectors.

Assistant Commissioner of Victoria Police Steve Fontana confirmed that they have evidence showing the overall infiltration of the building and construction industry by organised crime. He indicated that ‘outlaw motorcycle gangs, including the Comancheros, have been regularly engaged as debt collectors on behalf of the industry. He said:

Victoria Police is concerned that the methods for debt collecting in the industry involve criminal conduct such as assault, threat to assault and intimidation.

This is the kind of thing that is being defended by the Labor Party, the Greens and others in this place. This is the kind of thing they do not want to see reasonable penalties for. There is a range of pieces of legislation to deal with this—whether it is the Australian Building and Construction Commission, whether it is the Fair Work registered organisations legislation—that would actually apply some proper penalties so we can stop this at source, instead of having some of this wrongdoing become endemic in parts of the industry. This is what the Labor Party and the Greens are defending. We have heard it time and time again.

Senator Conroy interjected when I mentioned Craig Thomson's name—


Senator SESELJA: You did interject. You said there were others. If there are others, Senator Conroy, let the law deal with them.

Senator Conroy: Unlike the royal commission, which wouldn't. It wouldn't even take submissions on it.

Senator SESELJA: Wouldn't you want to see the law deal with them as well? If you are aware of others that we are not aware of, then bring them forward. Expose them. But what you are saying is that the likes of Craig Thomson and Michael Williamson, who have clearly been shown to have done the wrong thing by their members.

The ACTING DEPUTY PRESIDENT (Senator O'Neill): Senator Seselja, it would help if you directed your comments through the chair.
Senator Conroy: It would help if you stopped talking to me.

Senator SESELJA: Absolutely, Acting Deputy President. I appreciate your advice and I will go through the chair.

Senator Conroy: I know we are family, but that is taking it too far. Family! You know what they are like. You marry into them and this is what they are like.

Senator SESELJA: It will help if I do not hear this chirping in my ear from Senator Conroy. It will be easier not to respond to him. Therefore, I will certainly take your advice, Acting Deputy President, and go through the chair.

But this is the kind of behaviour that the Labor Party is saying is okay. These interjections are saying: 'What about others?' Well, absolutely: what about others? If they are shown to be doing the wrong thing—I do not care who they are; I do not care if they claim to be a whistleblower or if they are a whistleblower or if they simply got caught out doing the wrong thing—there should not be just a slap on the wrist for this kind of behaviour.

I again go to the point that we rightly say—and Senator Lambie has raised it and I am sure others have raised it in debate—to corporate criminals: 'There are serious penalties.' People can lose their life savings. People invest in companies, expecting that the directors will do the right thing. We have a legal framework to make sure that you do your best. If you get it wrong, if you fall a little bit short, maybe there are some consequences. But, if you deliberately fall short, if you deliberately do the wrong thing, if you knowingly do the wrong thing, then that is when we really need to have the serious penalties, and say that that is absolutely unacceptable. We need to have confidence as a community in corporate leadership. We have those laws. At the moment they are much stronger than what applies to some of these registered organisations.

What we are saying is: let's level that playing field and let's make sure that we do have serious penalties. Whether you are ripping off the workers or ripping off the shareholders, it is the same principle. It is absolutely the same principle. We have seen this lawless attitude of some unions, whether it is with Boral and construction sites in Melbourne, with the law being effectively determined by the CFMEU. There are numerous examples of secondary boycotts, cartel behaviour, racketeering, intimidation and illegal black-banning. The CEO of Boral, Mike Kane, lashed the CFMEU as 'an organisation that openly admits it has and will continue to break the law'. He stated:

On construction sites in Melbourne the law doesn't apply, the law is determined by the CFMEU… That simply cannot stand. We can look at all the economic costs of having a situation of lawlessness on our construction sites and in other industries but there is also the moral fabric; the rule of law actually has to mean something. We could go through all the evidence that we have heard so far about Cesar Melhem, Bill Shorten's close friend; the false invoices; the Industry 2020 slush fund; the CFMEU receiving leaked details from Cbus members; the threats and the intimidation—and here in the ACT we have heard damning evidence into some of this behaviour.

I would ask senators, as part of this debate and as they consider their vote on this issue, to simply look at what this legislation does. The claims by Senator Lambie are wrong in terms of what it does and what it does not do. And certainly you cannot claim to want to stand up against lawlessness, corruption and wrongdoing and then vote against the very measures that
would ensure we have a serious legal framework to deal with those breaches. What you are effectively saying is that ripping off the workers will be treated as a lesser offence than ripping off shareholders and other members of our community. Who here who claims to stand for the workers could actually let that stand? This legislation, as part of a suite of legislation, should be supported to ensure that we have the rule of law across the board and that union officials and other representatives of registered organisations are held to account and to similar standards to what we have for leaders in the corporate world. I commend this important piece of legislation to the Senate.

Senator McGrath (Queensland) (20:02): I rise to speak—

Senator Conroy: Oh no!

Senator McGrath: Oh yes, he's back! It has started. That is a record. I think I had said two words, maybe just a syllable, and Labor interjects. That is a world record. A golf clap—a almost jazz hands—in terms of the effort by Senator Conroy. I am very, very impressed, Senator Conroy—

Senator Conroy interjecting—

Senator McGrath: and I will not let you down with what I am going to talk about tonight. This will keep you awake tonight. It will—

The Acting Deputy President: Senator McGrath, direct your comments through the chair and avoid the distraction that Senator Conroy is clearly providing.

Senator McGrath: He is very distracting—

Senator Conroy interjecting—

Senator McGrath: He is the physical embodiment of jazz hands—

Senator Williams: Madam Acting Deputy President, I rise on a point of order. I ask you to draw to the attention of Senator Conroy standing order 197, which means interjections must be ceased. Either that or tell him to get over the fact that the Sydney Swans beat Collingwood last Friday night—one of the two, but please stop him interjecting.

Senator Conroy: I stand admonished.

The Acting Deputy President: Senator Conroy, if you can contain your enthusiasm for democracy, Senator McGrath has the call.

Senator McGrath: I am speaking here tonight, to those who are listening, on the Fair Work (Registered Organisations) Amendment Bill 2014 [No. 2]. The measures in this bill are a key election commitment of the coalition and a matter of high public concern in light of the ongoing royal commission into registered organisations and the recent investigations into the Health Services Union.

The coalition first released its policy for better accountability and transparency of registered organisations in April 2012 and received widespread public support—so much widespread public support that we won the election in 2013 with this as one of our key election commitments.

The bill will amend the Fair Work (Registered Organisations) Act 2009 to establish an independent watchdog, the Registered Organisations Commission, to monitor and regulate registered organisations with enhanced investigation and information gathering powers. It will
strengthen the requirements for officers' disclosures of material personal interests and related voting and decision-making rights and change grounds for disqualification and ineligibility for office. It will strengthen existing financial accounting, disclosure and transparency obligations under the Registered Organisations Act by putting certain real obligations on the face of the Registered Organisations Act and making them enforceable as civil remedy provisions. And it will increase civil penalties and introduce criminal offences for serious breaches of officers' duties as well as introduce new offences in relation to the conduct of investigations under the act.

The government is committed to improving the Fair Work laws so that we can build a more stable, fair and prosperous future for Australia's workers, businesses and the economy. The absolute need for this legislation almost goes without saying. The rorts, the rackets and the rip-offs have been in the media on an almost daily basis, and the wider community is strongly in favour of these reforms. Until this parliament acts, Australia will not have a sufficiently robust system to ensure that corruption of the sort that was revealed during the numerous scandals can be uncovered and eradicated before it becomes systemic, as it did in the infamous HSU case.

It is simply no longer tenable to argue that the present system is adequate to deal with or discourage this kind of behaviour. Unions and employer organisations play a critical role in the workplace relations system and in the economy more broadly, and their members invest a great deal of trust in them. The community expectation is that these registered organisations will operate to the highest of standards. These organisations are given special legislative rights. With these rights come responsibilities.

The government believes that the majority of registered organisations do the right thing and, in many cases, maintain higher standards than those that are currently required. However, the recent investigations into the Health Services Union illustrate that, unfortunately, financial impropriety can occur under the current governance regime for registered organisations.

The charges and allegations against former Labor Party member of parliament Craig Thomson and former Labor Party National President, Michael Williamson, in their capacity as officers of the Health Services Union are shocking and unacceptable. Mr Thomson was arrested in respect of more than 150 fraud related criminal charges and is facing allegations that his 2007 federal election campaign was partly funded by siphoning union money without authorisation. Mr Williamson has pleaded guilty to misusing almost $1 million of Health Services Union members' funds. Mr Williamson has also been accused of destroying documents and hindering investigations. Members of the Health Services Union are asking how this gross breach of trust could happen. Questions have also arisen with numerous other registered organisations. Members of registered organisations are asking whether this could happen in their own organisation.

The government believes the Fair Work (Registered Organisations) Amendment Bill will provide the certainty and high standards of operation that members of registered organisations are entitled to expect. The bill introduces a suite of legislative measures designed to see governance of registered organisations lifted to a consistently high standard across the board. A more robust compliance regime will deter wrongdoing and promote first-class governance of such organisations.
The recent HSU scandals also revealed that the current processes for investigating wrongdoing and ensuring accountability are clearly inadequate. The Fair Work Australia investigations into the Health Services Union took far too long and the ensuing legal proceedings remain ongoing. A KPMG review into Fair Work Australia's investigations into the Health Services Union identified shortcomings in the conduct of those investigations. Members of the union and the community not only want a strong regulatory regime to give them confidence in their organisations but they also want swift action taken when standards are breached. In order to do this, it is necessary to have a robust and strong regulator in place with appropriate powers and resources, together with meaningful sanctions that can be applied when wrongdoing is revealed.

To improve oversight of these organisations, the bill will establish a dedicated independent watchdog, the Registered Organisations Commission, to monitor and regulate registered organisations and provide enhanced investigation and information gathering powers. The new commission will have the necessary independence and the powers it needs to regulate registered organisations effectively, efficiently and transparently. The commission will be headed by the Registered Organisations Commissioner, who will be appointed by the minister.

The commission will have stronger investigation and information gathering powers than those that currently apply. These will be modelled on those available to the Australian Securities and Investments Commission, which will further enhance the ability of the commissioner to provide strong and efficient regulation of unions and employer associations. The commission will have the power to commence legal proceedings and refer possible criminal offences to the Director of Public Prosecutions or law enforcement agencies.

The bill also ensures that there are appropriate sanctions against efforts to hinder or mislead investigations. This will give all members of registered organisations confidence that they should make a complaint to the commission about a registered organisation, that organisation and its officials must comply with the requirements of the investigation process or face sanctions. Members can also have confidence in the fact that under the new legislation, a person convicted of particular offences will not be eligible to be an officer of an organisation or to stand for election to office. The commission will also educate, assist and advise registered organisations and their members in relation to the new obligations, and ensure members are aware of their rights.

The commission will be established within the office of the Fair Work Ombudsman. While it will be located within the offices of the Fair Work Ombudsman, the commissioner will have independence in the exercise of the relevant functions and powers under the law and the authority to direct staff in relation to the performance of those functions. A special financial account will also be established for the commission to ensure financial independence and the commissioner will have responsibility for day-to-day management of the account. The commission will be required to report to the Minister for Employment annually on its activities and that report will be tabled in parliament. The commissioner will appear at Senate estimates.

The activities of the commission will also be subject to the same oversight by the Commonwealth Ombudsman as Commonwealth agencies. This will ensure the appropriate level of transparency and public accountability. As is common with statutory office holders,
the minister is able to give directions of a general nature to the commissioner. These directions must be in writing and are a disallowable instrument. For the avoidance of any doubt, it should be made absolutely clear that the minister will not have any powers to give directions as to a particular matter or investigation.

The bill also provides for information sharing between the Fair Work Commission and the Registered Organisations Commission to the extent that is required for both organisations to do their job effectively and efficiently. This is required as several administrative tasks relating to registered organisations will continue to be the responsibility of the general manager of the Fair Work Commission. Transitional arrangements have been included in the bill to ensure any ongoing matters being dealt with by the Fair Work Commission relating to registered organisations can be dealt with by the Registered Organisations Commission.

As well as establishing a strong, independent regulator, the bill introduces reporting and disclosure requirements and enhanced penalties for wrongdoing. Many registered organisations control assets worth millions of dollars. They are effectively dealing with the cash flow and investments similar to those of large businesses. That is why the bill introduces financial and operational reporting requirements for registered organisations that align with those outlined in the corporations law. This will strengthen existing financial reporting, disclosure and transparency obligations for registered organisations and officers. It is entirely appropriate to expect a high standard of financial reporting from our registered organisations given the trust members place in their unions and employer associations to operate honestly, and to use the funds derived from their membership fees to represent their interests rather than for ulterior purposes. Registered organisations have substantial economic, legal and political influence. It is clearly inconsistent with community expectations for such organisations to operate to lower standards than those that apply to corporations or other comparable bodies.

Registered organisations will need to disclose remuneration paid to the top five officers in the head office and any branches. Officers will be required to disclose their material personal interests to all members. This means disclosing the personal interests of officers and their relatives and declaring any payments made to persons or entities in which an officer has declared an interest. This aims to prevent individuals from improperly benefiting from their role in the organisation—for example, by an officer procuring goods or services from a company they hold some interest in without disclosing that interest and without an appropriate and transparent process being followed.

Registered organisations will be required to provide a summary of this information to members in an officer-and-related-party disclosure statement and lodge it with the commission. While corporations law only requires directors to disclose conflicts of interest to their fellow directors, the government believes that officers of registered organisations should be required to disclose such matters to members, as they are elected by members to represent their interests. Members deserve to know who is in control of their money and where any conflicts may exist.

Mr Thomson and Mr Williamson have shown us that the existing regulation does not sufficiently protect members' interests. Unfortunately, there will always be less scrupulous individuals who will seek to take advantage of their positions when standards of accountability are low and the risk of getting caught is also low. In the face of this kind of
behaviour, a strong message needs to be sent to discourage wrongdoing by officers and to rebuild the confidence of members and the community.

Enhanced reporting and disclosure requirements and a strong and efficient regulator will have little impact if the penalties for wrongdoing are not high enough to act as a deterrent. Currently, registered organisations and officers do not face the same consequences as companies and directors for wrongdoing. That is why the government is introducing significantly higher civil penalties and a range of criminal penalties for those registered organisations and officials who do the wrong thing. These penalties are in line with those facing companies and directors who break the law.

In relation to civil penalty breaches, the maximum penalty for serious contraventions will be 1,200 penalty units for an individual and 6,000 penalty units for a body corporate. This will apply to serious contraventions. What will constitute a serious contravention is defined in the bill. Other breaches will be exposed to a maximum civil penalty of 100 penalty units for an individual or 500 for a body corporate. By way of comparison, the current maximum penalties for even the worst misbehaviour are only 60 penalty units for individuals. The Federal Court will also have the power to disqualify an officer from holding office where a civil penalty provision has been contravened and the court is satisfied that disqualification is justified. Criminal penalties are being introduced for serious breaches of officers' duties as well as offences in relation to the conduct of investigations under the Fair Work (Registered Organisations) Act. The maximum penalties in these areas are 2,000 penalty units or five years imprisonment or both.

It is the government's expectation and it is the coalition's expectation that the highest penalties will be rarely handed out, but it is important that the courts have the ability to hand down strong penalties should the crime deserve it. We know that the courts have had an issue with the current framework, with the Federal Court's Justice North making almost unprecedented comments last year, saying, 'The penalties'—under the current act—'are rather beneficially low—beneficial to wrongdoers.'

Broadly, these offences relate to officers and employees of registered organisations who fail to exercise their powers or discharge duties in good faith and for a proper purpose. They also apply where an officer uses their position to gain an advantage for themselves or someone else or uses information gained while an officer or an employee to gain an advantage for themselves or someone else.

Criminal sanctions will also apply where an officer does not comply with the commissioner's new investigation powers. These sanctions align with the penalties that apply to noncompliance with an ASIC investigation and will ensure that officers of registered organisations take their obligations and the directions of the commissioner seriously.

Some registered organisations have indicated concern that the new penalties will mean that they will have difficulty persuading people to take on official responsibilities. The government and the coalition do not agree with that. The only people who have anything to fear are those who do the wrong thing. A rigorous structure and process will be in place for investigation and prosecution of alleged wrongdoing. Officers who are operating within the law, which is the overwhelming majority of them, will have no reason to fear taking on official responsibilities. The overwhelming number of officers, who are already doing the right thing, should be comforted in knowing that unlawful behaviour will be dealt with, thus
ensuring ongoing member confidence in the registered organisations as a whole. The coalition government firmly believes there should be no difference between the penalties levied against a company director who misuses shareholder funds and a registered organisation boss who misuses members' money.

There is broad community consensus for the government's amendments, including one actually from one of Australia's most prominent union bosses, a certain Mr Paul Howes, formerly of the Australian Workers' Union, who told the ABC in November 2012:

I actually believe there is a higher responsibility for us as guardians of workers' money to protect that money and to act diligently and honestly. The reality is I do not have any issue with increasing the level of requirements and penalties on trade unions for breaching basic ethics like misappropriation of funds.

The government's intention is to see the Registered Organisations Commission begin operation as soon as possible, from early next year, with new disclosure and reporting obligations, higher civil penalties and new criminal sanctions coming into effect as soon as practical. This timing will align with the reporting obligations on a financial year basis and will provide registered organisations and officers with time to become familiar with the new obligations and the penalties associated with those obligations.

In developing the bill the government consulted with the National Workplace Relations Consultative Council members through the Committee on Industrial Legislation, including employer and employee associations. The government has made a number of key changes to the bill, as well as several minor and technical amendments, in response to the feedback received. The government thanks those committee members for taking the time to review the draft bill.

The only people who have anything to fear from these amendments and this bill are those who have done the wrong thing. Anyone in this place who has a regard for the members of registered organisations and their money will support the bill. Any political party that refuses to support this greater accountability and transparency for registered organisations is voting to give the green light to more of the same behaviour that we have seen from the Labor Party's Mr Williamson and the Labor Party's Mr Thomson. It is simply no longer tenable to argue that the present system—


Senator McGrath: Senator Conroy is like a bookend in speeches, isn't he? He starts at the beginning and sparks up and then goes back to sleep—through you, Madam Acting Deputy President. He has a little slumber and then, at the end, he perks up a little bit. We are the poorer for that, Senator Conroy. I really do think you could interject more, because you add a certain je ne sais quoi to the Labor Party's approach to this bill, and that is missing.

This government believes that the bill sets a suitably high standard for the governance of registered organisations. I call on those opposite to support the bill. (Time expired)

Senator Reynolds (Western Australia) (20:22): I too rise to speak in support of the Fair Work (Registered Organisations) Amendment Bill 2014 [No. 2]. This bill implements the government's election commitment outlined in the policy for better transparency and accountability of registered organisations. It will enhance the accountability and transparency of registered organisations by broadly aligning the obligations of office holders and the penalties and powers of the regulator with the Corporations Act 2001. Having a look at the
detail of this bill, it absolutely blows my mind that anybody in this chamber could possibly not support the provisions of the bill. The fact that so many people on the other side are not supporting this, to me, very personally demonstrates so much of what is wrong with politics today.

Since the introduction of the 2013 bill, the Royal Commission into Trade Union Governance and Corruption has been established. The royal commission is inquiring into, amongst other areas, slush funds and other similar funds and entities established by or related to the affairs of trade unions. In its interim report, the royal commission made findings in relation to the conduct of officers of registered organisations, including that the maximum penalties for breaches of general duties in relation to financial management are too low, that breaches of officers' duties are significant and widespread and that, in some instances, there is a deliberate disregard for the law. Again, how is it possibly in workers' interests for the trade unions to have been allowed to get away with this sort of behaviour for so long? These interim findings of the royal commission, combined with the Health Services Union saga, illustrate the need for the measures proposed in this bill.

The bill increases civil penalties and introduces criminal offences for serious breaches of officers' duties similar to those applicable under the Corporations Act. The bill also establishes the Registered Organisations Commission as independent but within the office of the Fair Work Ombudsman. Most importantly, especially for those opposite who claim this to be a partisan venture, the policy principles behind this bill are supported by a range of Labor luminaries—your colleagues and ex-colleagues. Who have we got supporting this? We have got Simon Crean.

Senator Williams: Ah, good man.

Senator REYNOLDS: Yes. We have got Martin Ferguson. We have got Robert McClelland. We have even got Paul Howes and Ian Cambridge. They are all doyens of the labour movement and they are all saying that this is the right thing to do, and it is the right thing to do because it is the right thing to do by union members.

This bill also addresses concerns raised in the Federal Court by His Honour Justice Anthony North, who said that the penalties under the existing legislation are beneficially low to wrongdoers. That means people are not getting penalised as they should for misuse of union funds and other misbehaviour. This legislation will bring penalties in line with the Corporations Act, because we believe there is absolutely no skerrick of difference between a dodgy company director who is ripping off shareholders and a dodgy union boss who is ripping off members. Again, when you look at it that way, you think, 'How on earth is it that the people opposite, who say that they represent the workers and are there fighting for the workers' rights, cannot even give workers the same rights that shareholders have to protect them?' It is an utter, utter disgrace.

I want to absolutely stress that the only people who have anything to fear from this bill are those who are doing the wrong thing by the workers of this country. I also want to reaffirm that the government firmly believes that the vast majority of officers of registered organisations absolutely do the right thing.

This bill was previously voted down in the Senate, but the primary reasons that the opposition opposed the bill are actually issues enshrined in the legislation as it currently
stands today and are in full force. Something again that is quite astounding to me is that the onerous disclosure obligations that currently exist were in fact imposed by the Leader of the Opposition when he was the minister for workplace relations, and they will be removed under this government's bill.

Having a look at this bill and having a look at some of the history to this bill, I really had to start wondering why the Leader of the Opposition and those opposite would oppose these provisions. In my short time in this place, I have come to appreciate that, the louder and more aggressive the blokes on the other side of this chamber get, the more you just know there will be something they will want to hide with all the bluff and the bluster. Interestingly, the loudest in this chamber in my time so far appear to have been ex-trade union officials—a coincidence?

Senator Williams: They all are!

Senator REYNOLDS: I know. It is pretty hard not to find one. But is that a coincidence or not? Having a look at the facts, my strong and deep suspicion is that it is linked and it is no coincidence. To test this hypothesis, I went back and had a look at the facts—not the rhetoric—and what is behind this well-worn tactic of those opposite of denying, defending and attacking: deny, defend, attack; deny, defend, attack. What are they trying to hide behind that? When I sought to understand why those opposite do not support this bill and the protection of the workers that unions represent, it did not take long to really understand why those opposite do not support this bill and are now trying so hard to discredit the royal commission. Sadly I had to narrow it down to the top 10 reasons that have come out of the royal commission because, simply, time in this chamber would not permit more.

Senator Conroy: Oh dear, the royal commission-er!

Senator REYNOLDS: Mr Acting Deputy President, if Senator Conroy does not think what I am about to read out are issues that every trade unionist and those opposite should not hang their heads in shame about at the impact on the trade unions—he might heckle but let him heckle after I have read out these absolutely blatant horrendous things that are happening against the people he pretends to represent.

It was impossible to rank them because they are all so heinous. However, the first one I identified was: CFMEU officials Brian Parker and Darren Greenfield consorted with underworld crime figure George Alex. Alex's friends and colleagues include Mick Gatto; former Comanchero Bilal Fatrouni; senior Rebels bikie Abuzar Sultani; standover man Vasko Boskovski; recently murdered career criminal Joe Antoun; and infamous ISIS jihadists Khaled Sharrouf and Mohamed Elomar, who did weight training, out of interest, in his backyard and joined Alex on a shooting trip shortly before escaping Australia to fight with ISIS.

Senator Conroy interjecting—

Senator REYNOLDS: You might find that funny, but I think it is an absolute disgrace on behalf of all trade unionists in this country.

The second one: Comancheros being used as debt collectors for trade unions. The facts: assistant commissioner of Victoria Police Steve Fontana confirmed that the Victoria Police had evidence showing the overall infiltration of the building and construction industry by organised crime. He indicated that outlaw motorcycle gangs, including the Comancheros have
been regularly engaged as debt collectors on behalf of the industry. Victoria Police are concerned that the methods for debt collection in the industry involve criminal conduct such as assault, threat to assault and intimidation. Presumably, it is trade union members' money that is going to these outlaw motorcycle gangs, including the Comancheros. That is No. 2.

What is No. 3? No. 3 is: construction company pays Bill Shorten's election campaign director—which he, oops, forgot to declare. Mr Shorten accepted a $40,000 donation from construction companies—

Senator Nash: How much?

Senator REYNOLDS: $40,000, Minister—to pay the wages of his election campaign director in 2007. But, guess what? He did not disclose until—how many days do you reckon before the royal commission asked him about these matters in sworn evidence?

Senator Williams: Two.

Senator REYNOLDS: Two, that is right. From 2007 through to this year, he had forgotten to mention a $40,000 donation. He also relied on assistance from an AWU staff member to formalise this arrangement, which he also did not disclose and does not appear to have refunded.

Senator Conroy: It took the royal commissioner a year and a half to remember it was a Liberal fundraiser.

Senator REYNOLDS: Senator Conroy, the truth is the truth. As much as you might not like hearing this, it is a shame and a disgrace, and you are now defending it.

Ah, but that was not only it! The Leader of the Opposition also failed to disclose $12,700 for this worker plus $11,000 for a part-time campaign worker that was donated by—guess which union? The AWU—what a surprise. He only included this in a late disclosure—again, how many before the royal commission, do you think? It was two days before the royal commission evidence he gave. That is No. 3.

What do we think is the fourth absolute disgrace is? It is Bill Shorten himself cutting workers' conditions. Isn't that somewhat ironic—trade union members are paying for unions to represent them, and what is he doing? He is doing what I would call dodgy deals to cut their wages. How did this happen? The commission heard that under the 2006 CleanEvent agreement, signed under the authority of Bill Shorten as national secretary of the AWU, workers were deprived of penalty rates, public holiday pay, overtime and shift loadings. This was under a deal authorised by Bill Shorten himself.

As Victorian secretary of the AWU, Bill Shorten also approved an agreement to allow a group of mushroom pickers to be fired and mostly rehired as casual labour. It saved the company millions from the abolition of overtime rates, amongst many other savings. This was from a man who purports to be standing up for the workers of this country—absolutely disgraceful. That is No. 4.

What is No. 5? No. 5 relates to Boral. On construction sites in Melbourne, the law is determined by the CFMEU. Pointing to numerous examples of secondary boycotts, cartel behaviour, racketeering, intimidation, illegal black-banning and criminal conspiracy, Boral CEO Mike Kane lashed the CFMEU as 'an organisation that openly admits it has and will continue to break the law'. Kane revealingly stated that on construction sites in Melbourne,
the law does not apply; the law is determined by the CFMEU. Guess who they employ to do their enforcement? The Comancheros.

No. 6: Bill Shorten's close friend and AWU associate Cesar Melhem and false invoice incidents. The royal commission heard evidence that Cesar Melhem repeatedly issued false invoices to companies marked 'training', 'OH&S' or similar when they were actually payments for union membership. These were not small amounts of money. Any amount of money would be wrong but this was for hundreds of thousands of dollars. The AWU membership roll contained the names of workers and horseracing jockeys, who had never agreed to become members of the union. Mr Melhem also made a side deal in which cleaning company Cleanevent agreed to pay the union $25,000 per year for three years—$75,000—for undisclosed services in order to retain an enterprise agreement that left their workers with substantially worse than award pay rates. That is an absolute disgrace. That is No. 6.

No. 7 of my top 10: Bill Shorten's close friend Cesar Melhem and the Industry 2020 slush fund—yet another sad saga involving them both. The royal commission heard evidence of a slush fund, euphemistically entitled 'Industry 2020' set up by former AWU state secretary and sitting ALP Victorian MLC Cesar Melhem. Despite being structurally separate from the AWU, this fund—aka the slush fund—received regular payments from companies which had EBAs with the union. It employed no staff and had no premises of its own. However, all Industry 2020 fundraisers were organised and run by AWU officials and used AWU resources. Through these fundraisers, Industry 2020 received contributions from other unions such as the Victorian branch of the NUW. The most high-profile Industry 2020 fundraiser was a $550 a head lunchtime function at Flemington Racecourse addressed by the then Deputy Prime Minister Julia Gillard.

What is no. 8 on the shame roll? It was the CFMEU receiving leaked details from Cbus members. The private details of over 300 construction workers were leaked by the construction industry superannuation fund Cbus to the CFMEU. What a disgrace. As a result of the leaks, construction workers were contacted, intimidated and threatened by CFMEU officials. And guess who the CFMEU officials employ? The Comancheros.

One of the Cbus officials who leaked the information to the CFMEU gave evidence that she was absolutely terrified of what the New South Wales secretary of the CFMEU would do to her and her family if she told the royal commission the truth about this leak. When an organisation like the CFMEU who uses Comancheros to do their enforcement, it is amazing that this woman had the courage to come forward.

No. 9 on the role of shame is John Setka's threats. Allegations were made in the royal commission that the CFMEU had threatened contractors at the Pentridge Village residential development site to sign a CFMEU enterprise agreement and that they had pressured construction workers to join the union or otherwise face being black-banned. The developer testified that CFMEU state secretary John Setka demanded that the concreter Paul Costa be kicked off the Pentridge Village site simply because he was related to Daniel Grollo who Setka hated—again, utterly, disgraceful.

No. 10 on my list—and, as I said, I have a very long list and there are many, many more examples—is where a police officer arrested a former CFMEU official who gives evidence. ACT police arrested a former construction union organiser and previous Labor Party sub-branch president after he admitted to accepting tens of thousands of dollars in payments from
tradesmen to help them win work. The CFMEU organiser was arrested after evidence revealed at the Canberra hearing of the commission. This was not of the commission's making; this was evidence he gave to the commission.

Mr Kivalu, who was president of the ALP's Dickson-Morning sub-branch in Canberra at the time he was allegedly involved in corruption, denied the cash payments constituted a bribe. When he resigned as the ALP sub-branch president, he was replaced with guess who? Another union official from the CFMEU who has also been the subject of adverse allegations at the commission—again, a pattern of behaviour time and time and time again.

Having a look at those facts and that evidence—and the weight of evidence—it became very apparent why those opposite and the Leader of the Opposition so staunchly support their trade union mates and their supporters. It is a story of utter shame, and sometimes I do not know how those opposite can possibly still support the trade unions, knowing exactly what the trade unions are doing to their workers.

It is very clear when you cannot discredit the facts that you try and discredit the man. That is exactly what is happening now with the royal commission: deny, attack, defend. Deny, attack, defend. Deny, attack, defend. If you concentrate on discrediting the commission enough, you are hoping that all of these facts will disappear. Let me tell you: they will not disappear—

*Senator Bilyk interjecting—*

**Senator REYNOLDS:** no matter how hard you scream in this chamber. Deny, attack, defend—but the facts are here and the evidence is very, very clear.

So what are the changes that you are so opposed to? The government is making changes to remove unnecessary disclosure requirements on officers and organisations that were first included by the previous government's 2012 amendments to the Fair Work (Registered Organisations) Act 2009. These changes will ensure that only disclosing officers, those whose duties relate to financial management of the organisations, must disclose their material personal interests; and officers no longer need to disclose the material personal interests of their relatives.

The bill now also ensures that financial officers with relevant experience can apply to the Registered Organisations Commission for an exemption. These are all issues that were identified by Labor as problems. They are problems that exist in the law as it stands today. They acknowledged it. They know it is still the case. They are problems created by Labor yet again, and we will fix them with this bill.

There is a pressing need for this bill and for the establishment of a registered organisations commission to protect union members' and the funds that come out of their hard-earned pay. As we have seen, time after time and again and again, that out of the royal commission and elsewhere something has to change. Somebody has to stand up for these workers, and it is for all of those reasons, that I support this bill.

**Senator CANAVAN** (Queensland) (20:43): It is a great honour to stand up in support of this bill, the Fair Work (Registered Organisations) Amendment Bill 2014 [No. 2]. It is an opportunity to support stronger regulations in what is a very important sector in our economy. It is also an opportunity for the Labor party to demonstrate to the Australian people whose side they are on—whose side are you on? Are you on the side of the worker who has to work
hard to pay their union dues? Are you on the side of people who want proper protection in the workplace; or are you on the side of the people who run unions currently? Are you on the side of people who have been exposed as mishandling and misusing members' funds?

It will be very interesting to see which way the Labor Party votes on this, because it will reveal whose side they are on. Are they on the side of the workers as they actually say in this chamber over and over again; or are they on the side of their political puppet masters who control the strings of their positions here in the Senate and sometimes in the lower house? We all know how many senators here from the Labor Party owe their positions to unions. It is almost all of them and, because they do, they are somewhat conflicted on this bill. They say that they stand up for the worker. They say they stand up for people who do it tough and are on or below average wages, and they want to get a better deal for them.

I do not think it was a good deal for the nurses of New South Wales who have to empty bedpans and work hours away from their families. They have to do all of those things and pay their dues to their union and then have people like Mr Williamson and Mr Thomson defraud them of their money by going and spending that money on fancy dinners, travel, some establishments we will not mention here in this chamber and also just little incidental things. I remember when that report by the Fair Work Commission came out on the conduct of Mr Thomson in particular. I remember that it was not just that he was living large, living on the hog from the work of ordinary health sector union members. It was also that he was using his corporate credit card, or his trade union credit card, as his own personal piggy bank. You could see in the transactions exposed by that report that day after day he would go to the local service station and buy a chocolate bar or buy a soft drink, all on union money. It was all personal expenditure, all with a complete lack of care and fiduciary duty for his own members' money.

It will be very interesting to see on which side the Labor Party comes down on this because these changes here have their genesis in those allegations from a few years ago. They are a specific response that the coalition crafted after those sordid details were exposed. It was something that the coalition took to an election. We took a promise to the Australian people that we would get tough and we would strengthen the requirements on trade union officials to make sure that people who do the wrong thing are held to some form of account. That is all that this bill does. All this bill does is try to make sure that the behaviour and actions of trade union officials are disclosed to their members, as they properly should be, and that, if they are found to be doing the wrong thing, they are subject to appropriate sanction and discipline by the law, as they should be.

So whose side are the Labor Party on? Well, maybe I should not ask, because I think I am going to be disappointed. I do not think they are actually going to be on the side of the worker here. I think they are going to come down, once again, to favour the trade unions and to favour officials in very well paid and secure jobs, against the interests of their own workers, who do not necessarily share those same benefits.

Unions were set up for a purpose. In my maiden speech I mentioned that trade unions have done good work over a number of years in our community and in other countries to improve the lot of workers, but some have travelled far from that original purpose, no longer have the interests of their own members at heart and seem to act for their own personal gain before
they act for the collective interest. I believe that is often a consequence of the fact that we have substantially protected trade unions in our legislation over the years.

We have a registered organisations act from this parliament which provides trade unions with very special privileges. They are somewhat exempt from competition from other unions establishing to try to get members in their area. You can take the Health Services Union as an example. Notwithstanding the conduct of Mr Thomson and Mr Williamson, particularly in the New South Wales branch of the Health Services Union, because of the way the registered organisations act is written, no other union could be formed to offer membership to workers in that sector if they could conveniently belong to the health sector union as it stood. There is a provision in the Fair Work Act which says that, if someone can conveniently belong to an existing union, someone cannot set up and establish a different union to compete with them.

That is the economic equivalent of saying: 'You must buy milk from this supermarket. That's it. That's the only supermarket you can buy milk from. You've got no choice.' What do you think is going to happen to the price and quality of milk in that environment? It will fall because there will be no discipline; there will be no choice on the part of the consumers; and you will get bad outcomes. One of the greatest things we have in this country, if not the greatest thing, is our choice: our choice to do as we feel like in our lives, to buy what we like and to live with whom we like. If Senator Nash did not like her cup of coffee this morning, she can go to a different cafe tomorrow and get a better cup of coffee. Through that process we get good cups of coffee. We have pretty good cups of coffee in this country because we have choice.

If you do not have choice, you get bad outcomes. If you do not have choice on who your political party leader is, you get someone like Bill Shorten, because the Labor Party do not have a choice on who leads them now. They have locked themselves into Mr Shorten because they have taken that right away from themselves, and then you get bad outcomes. You get bad outcomes like the current Leader of the Opposition. That is what happens when you do not have choice. I would encourage the Labor Party to embrace the concept of choice and once again open up the leadership of the Labor Party. You might get a better outcome, not that I would wish for that, but at least choice would be returned to their membership.

I want to mention one more thing. Not only do we have a Fair Work Act which protects trade unions from a competitive environment but we also exempt trade unions from various provisions of the Competition and Consumer Act that other organisations are subject to—in particular, collective bargaining and collusive behaviour. If farmers want to collude, if farmers want to get together and bargain in a collective fashion like a union does, they need to meet certain public interest tests under the Competition and Consumer Act before they enter into a collective bargaining arrangement. Unions are lucky not to have those restrictions placed on them. Once they are a registered organisation under the Fair Work Act, they can be exempt from those particular provisions and legally collude as often as they like.

We are not arguing against that in this bill. As I said earlier, unions have played an important role in our society and continue to, and if this bill is passed we will continue to have unions that are exempt from provisions of the Competition and Consumer Act and that can collectively bargain with their employers to get the best deal for their workers. What this act is all about is providing a more effective, more transparent and more accountable trade union sector than currently exists. This is a pro-worker bill because it will help return power
to the members of unions, who are actually the workers. The members of unions are the ones who should be able to run and hold accountable the people who run their unions. This bill will help them do that.

The only people who should be afraid of this bill are those people who are doing the wrong thing, because all this bill does primarily is increase penalties for people who are doing the wrong thing. So, if you are a trade union official who is doing the wrong thing, you should be afraid of the legislation passing through tonight. But, if you are not doing the wrong thing, if you are acting in the interests of your members—and I would hazard a guess that the majority of trade union officials are doing the right thing and, as usually happens in society, it is just a few bad eggs—you will have nothing to fear from this bill. So why are the Labor Party so afraid of this bill, Senator Nash?

Senator Nash: I do not know.

Senator CANAVAN: I do not understand why they are so afraid of this bill. It must be because they get support from some people who are doing the wrong thing. That is why they are afraid of this bill and that is why the Greens are afraid of this bill, too. We know that they get significant support—not just some support—from people who seem to be doing the wrong thing right now. We know that the CFMEU bankroll the Labor Party and the Greens. They provide substantial amounts of money. The serious allegations of misconduct that have been revealed in the royal commission and the serious and contemptuous behaviour of some CFMEU officials, particularly with regard to women—absolutely disgraceful conduct—should be condemned by all sides of politics but unfortunately it is not strongly condemned by those opposite because they get bankrolled by the union.

These days many political parties do not take donations from certain sectors—like tobacco and other sectors we feel are not doing the right thing. The Labor Party and the Greens often sanctimoniously stand up and say they will not take donations from particular sectors—because they are pure and they are nice and they stand up for what is good and right in the world—but when their financial masters, the CFMEU, engage in conduct much worse, much more beyond the pale, than many of those other sectors, those opposite do nothing because they rely so heavily on that money. In my view, their vote on this bill will be reflective of the money they receive from the CFMEU.

In the time available to me, I should outline precisely what this bill will do. The Labor Party would have you believe that this is some retrograde, almost fascist, piece of legislation, when in fact all this legislation does is make the obligations on trade union officials somewhat comparable to the obligations that are placed on directors of corporations. We provide corporations with certain privileges, particularly limited liability, and it is right and proper that we place serious obligations on the directors of corporations in return. It is the same principle here. We protect trade unions from competition and from having to justify their collusive activities and, in return, we should expect the highest standards of conduct from those officials.

This bill will establish an independent registered organisations commission to oversee the obligations of the Fair Work Act to make sure that registered organisations are doing the right thing. The bill will also strengthen the disclosure requirements placed on officials of trade unions, so that their members can be informed of what they are up to and what their conflicts of interest are. I will say upfront that the conflict of interest obligations we are imposing in
this bill go somewhat further than the Corporations Act, because we think it is really important that trade union officials, in particular, show their members what conflicts of interest they have. Most significantly, this bill will increase the civil penalties associated for breaching the registered organisations provisions of the act and it will introduce some criminal offences as well—again comparable to the Corporations Act.

The coalition, in opposition, developed these proposals very soon after the allegations with respect to the HSU were exposed a few years ago. These proposals were rejected at the time by the then Labor-Green government, and I imagine they will be rejected again by the Labor-Green opposition. They were rejected when the Labor-Green government were in power. They were rejected when former Prime Minister Julia Gillard was there. She relied heavily on union support to maintain her leadership of the Labor Party and—surprise, surprise—they opposed these very moderate, very reasonable and very sensible responses to that particular crisis. And they are going to reject these proposals again because they still rely heavily on the unions.

I was a bit young to remember, but I have read about a former Prime Minister of the Labor Party, Bob Hawke. I remember reading that former Prime Minister Bob Hawke took some serious and strong actions against unions that were doing the wrong thing in his time. He actually had guts. He actually stood up against people who were clearly acting beyond the bounds of reasonable conduct. He deregistered the Builders Labourers Federation for conduct not dissimilar to the conduct that the CFMEU engages in today. Former Prime Minister Bob Hawke also stood up to the pilots who, in the late 1980s, were on strike about certain reforms. He stared them down and won a great victory for our country that has provided us a much more competitive and efficient airline ever since—something which has not been opposed by any Labor government since that time. He did that because he had guts and he did not just follow. The unions were not just playing Pied Piper to his followers. He was not leading a government of lemmings.

Unfortunately, we now have a Labor Party that are lock, step and barrel constantly tied to the unions. They will not deviate one iota—will not step off their right foot—to sometimes do what is right for the country rather than what is right for their own sectional interests. It is very unfortunate that we now have a Labor Party like that, because these kinds of reforms are something that we should be able to bring in in a bipartisan way. We should be able to respond to serious misconduct in the union movement. No one could deny that the behaviour of certain union officials in the last few years has been deplorable. We should be able to respond to such activities with a sensible and strong response, by strengthening the penalties and requirements of the act, to make sure that such activities do not happen again.

Why is it important that we make sure that this sort of misconduct does not happen again? Well, we don't just want to stop it happening again—that is not good enough; what we actually want to do is give members of unions the confidence that it will not happen again and confidence that the officials who are meant to represent their interests will look after their interests first and foremost. Unfortunately, I do not think union members can have that confidence right now, given the last few years. It is an unfortunate outcome, but that is the reality of where we are. This bill, by strengthening penalties and increasing transparency, will help to restore that confidence. I said earlier that it is a pro-worker bill, and I absolutely stand by that. It is a pro-worker bill because it helps to strengthen the rights and accountability and
the information that flows to workers who are members of unions. I also think that this is a pro union bill, because these provisions will help to provide greater certainty and greater security to unions so that they can sell their own benefits to their members. They can stand up and say: 'We are held to a high standard by the parliament and by the government because of this bill and because of these amendments. You can be confident that we will act in your interests, because, if we don't, we'll have a serious slap-down by the law.'

And it is not just me who believes that this bill will be pro union and will help to restore the community's confidence in trade unions; it is also the view of Mr Paul Howes, the former leader of the Australian Workers Union. He supported the then opposition's amendments—now the government's bill—at the time, in November 2012, when he told the ABC:

I actually believe there is a higher responsibility for us as guardians of workers' money to protect that money and to act diligently and honestly …

Those are the sentiments that this bill tries to capture. Those are the sentiments that are driving the objectives of this bill. If this bill comes in, it will help to provide greater trust and security that union officials are acting as guardians of workers' money, that they are protecting that money and that they are acting diligently and honestly.

As I said, I want to conclude by stressing that I do believe that the majority of trade union officials are probably doing the right thing and do hold their workers' interests in the best regard. It is almost always the case that there are only a few bad apples that spoil the lot, and what we need to do with laws and regulations is to ensure that we can identify those bad apples, root them out and appropriately penalise them so that there are not the incentives in the system to act like a bad apple in the future. I generally hope that the crossbenchers can support this legislation. We will not get the support of the Labor Party and the Greens, given who pay their bills, but if the crossbenchers can support this bill it will be a great development. It will be a significant development in the regulation of trade unions in our country. It will help to increase confidence and support for the trade union movement and, most importantly, it will protect the workers of our country who often earn less than the average wage. And it will help to make sure that the money they pay in union dues is used to protect their interests and not anyone else's.

Senator RUSTON (South Australia—Deputy Government Whip in the Senate) (21:03): I too rise tonight to speak to the Fair Work (Registered Organisations) Amendment Bill 2014 [No. 2]. Having listened to the contributions of those who have gone before me, I must admit that I too am a little at a loss to understand why anyone would be opposing this legislation. It is, largely, seeking to put in place a suite of actions that will mean that registered organisations—probably more commonly referred to as unions—are required to operate under the same corporate rules and guidelines and operating procedures as a corporation. At the end of the day, a union is nothing more than a corporation or an organisation—it is just that its output or the service that it provides relates to the organisation of the workforce or the labour force. To think that we should have a different set of rules that apply to a corporate organisation that looks after that particular service sector as opposed to any other service sector, manufacturing sector, primary production sector or whatever sector it may be, seems a little anomalous to me.

This particular bill basically seeks to replicate the Fair Work (Registered Organisations) Amendment Bill 2013. The measures in that bill were a key election commitment by this
government. I believe this was a matter of great concern to the Australian public in the lead-up to that election and that it remains of great concern to the Australian public. And despite the hoo-ha that has been going on over the last few days in relation to the senior commissioner on the royal commission, I think the necessity to establish a royal commission into registered organisations is a pretty sad indictment of where this particular situation has got to in Australia. We do not have to look terribly far—we look back to the Health Services Union situation. What an absolute debacle! What a terrible indictment of the Australian labour movement and the union movement that such a thing was allowed to occur. And today we have still to get to the bottom of it. It continues to be in the courts without any great resolution.

The fact that this particular bill sets up great accountability and greater transparency of registered organisations and it is meeting with resistance by those opposite and by the Greens in this place is really quite bizarre. The number of times I have had to sit in this chamber and listen to those from the other side, saying, 'The government has to have more accountability,' or 'The government has to have greater transparency,' and here we are with a bill before this place that seeks to do exactly that and we find that those opposite are refusing to accept it. I do not know quite why accountability for the government, banks, large corporations or every other member of the Australian public is an acceptable thing to be demanding, but we do not seem to have to have any accountability or transparency for our registered organisations.

The bill also seeks to set up an independent watchdog, the Registered Organisations Commission, to monitor and regulate registered organisations. Once again, I am at a loss to see why anybody would not want to have an independent ombudsman or commission. Certainly, I could understand if those opposite thought that a government department were going to have responsibility for the monitoring and regulation of an organisation, but to be resistant to an independent organisation doing it is quite bizarre.

The fact of the matter is that what we have here is a rule for them and a rule for us, a rule for the unions and a rule for everybody else. I think the Australian public is actually getting to the stage where they are a little bit sick of thinking that the unions are a rule unto themselves. I have a level of sympathy with the senator from Tasmania Senator Lambie when she is calling for the deregulation of the CFMEU. Obviously, we need to be extremely careful that we make sure the rules for deregulation are consistent across all unions when you consider some of the activities and some of the allegations that come into this place about some actions of the CFMEU.

I had the privilege of sitting on the Standing Committee on Education and Employment for a period. Sitting in estimates hearings, I listened to some of the things CFMEU officials had done to people—intimidation, bullying, outright I would suggest criminal behaviour by organisers or senior officials in the CFMEU—which would probably leave many in Australia to have a level of sympathy with Senator Lambie's sentiment that the deregulation of the CFMEU would probably be a good thing. We have to be very careful that we are not just singling out the CFMEU. Legislation such as the Fair Work (Registered Organisations) Amendment Bill seeks to make sure we make a set of rules which would apply for everybody. If we put these rules in place, then anybody or any organisation which seeks or operate outside those rules can be punished accordingly.
While I have some sympathy for Senator Lambie's position, I think it would be very wise of her to have a really good look at what this bill is trying to achieve because it may allow her to get her desire to have the CFMEU deregulated. If this particular suite of legislation goes through we will be able to find out whether the things that are being alleged about the CFMEU are true, if they do not meet the requirements set out. Obviously there would be a capacity to do that.

Why would anybody want to oppose this piece of legislation? It is probably fairly obvious why we are seeing resistance from the other side—what has come out in the royal commission in relation to some of the extraordinary things the unions are doing. There is a perception out there that unions are for workers, but if you heard some of the bad deals which have been done, for example, by the Australian Workers Union on behalf of their members, you could be excused for thinking that the unions are not necessarily there to protect workers but possibly for a level of self-interest and self-preservation. As an example, in 2006 Cleanevent entered into an EBA with the AWU, signed by a delegate of the now Leader of the Opposition, Mr Shorten, which specifically excluded certain conditions including penalty rates, public holiday pay, overtime and shift loadings. By 2010, Cleanevent was saving approximately $2 million per year in wages, and saved up to $400 million after removing night shift penalties and weekend loadings. Cleanevent paid the AWU $25,000 a year for three years as part of this 2010 deal to maintain low-paying conditions for its workers. You have to wonder how a particular action by that union on behalf of its workers, which removed a number of their entitlements in return for money being paid to the union, could possibly be in the best interests of its workers. Maybe the workers were happy with that but I would suggest the workers probably were not even aware that they had had some of their conditions sold away for the sake of funding being paid to the union by the company with which the deal was done.

Chiquita Mushrooms is purported to have saved millions of dollars from the abolition of overtime rates when the AWU permitted it to move its staff into labour hire or effectively casual arrangements. Once again, this was approved by the Leader of the Opposition before he came into this place. The labour hire was required by the EBAs to be approved through companies recommended by the AWU because it was union-friendly and would ensure that revenue to the AWU from union membership would be maintained. And low and behold, Chiquita Mushrooms paid the AWU $4,000 per month, which the union claimed was paid for education leave. The former human resources manager of Chiquita Mushrooms said that the payments were to avoid union grief and to facilitate good relations with the AWU. Former Managing Director Stephen Little agreed that the payments were to buy industrial peace. Once again, you would have to question how on earth that particular type of action can be acceptable.

I could go on for many hours with page after page of unexplained or dubious payments which have been made to various unions. You can perhaps understand why we are seeing the level of resistance on the other side for this particular piece of legislation to be passed. I suppose what we would like to know—and it is a pity that it is yet to be explained—is why the other side are not supporting this legislation. We have heard comments along the line that this is an ideological attack on workers. I cannot see how doing deals that sign away workers'
entitlements or workers' conditions in response for payments to a union can possibly be ideological good for workers.

But, back to the legislation: this government—the government of which I am very proud to be a member—is really committed to making sure that we have fair work laws in Australia, because unless we have fair work laws in Australia it is almost impossible to build a safe, stable, fair and prosperous economy, not just in economic conditions for our businesses but for Australian workers in Australian businesses.

We need to get stability in there, we need to get consistency in there and we certainly need to get thuggery off our building sites. As you well know, Mr Acting Deputy President, the capacity for our major cities to be able to develop in the way that they need to develop is almost entirely built on their infrastructure development. If we are constantly held to ransom by the thug-type behaviour of unions like the CFMEU, who are quite happy to go in to intimidate and threaten anybody who would seek to do anything that they did not approve of, then that is a very sad indictment of our industrial space at the moment. And it is also doing absolutely nothing to assist our economy in its recovery from some very bad times—not the least, obviously, the global financial crisis.

Unquestionably in my mind, this legislation absolutely needs to pass because of the rorts, the rackets and the rip-offs that we have seen day after day in the media—almost on a daily basis. There is no doubt that people in the wider community strongly favour these reforms. I think the public understand what is going on and they want to see this rubbed out as well. I would imagine that the public would find it really quite extraordinary that those on the other side, and the Greens at the other end, would not seek to try to deal with what seems to be a constant and systemic problem in our building industry. We need to make sure that we have a strong and robust enough system within our parliament and legislative framework to enable those officers that need to to undertake the necessary actions that will get some trust and integrity back into our system.

The government certainly believes that the majority of registered organisations do the right thing. In many cases they have the very highest of standards. It must be very unfortunate and disappointing to them to be tarred with the same brush as some of the few unions and registered organisations that are doing the wrong thing and creating this really bad perception and idea in the wider community with all the terrible things that are going on. I am sure the public does not actually differentiate between the registered organisations that are doing the right thing and the registered organisations that are not necessarily doing the right thing. I would just like to put on the record that the government understands that the majority of registered organisations are doing the right thing, and that they have great standards. They represent their workers very well and the workers are obviously great beneficiaries of the action of the majority of unions.

But you cannot go past the recent Health Services Union situation to demonstrate the extraordinary situation that occurs when you have the kind of level of financial impropriety and corruption that we saw in that particular union. It was so extraordinary to end up with the situation where we had a member of parliament who remained seated in this place for almost the entire duration of a term of the parliament while he had charges and allegations levelled against him—Mr Craig Thomson. Then we went through the whole Michael Williamson
situation. It was just extraordinary that one union could completely tarnish the reputation of the entire union and registered organisation movement across the whole of Australia.

We believe that this bill—the Fair Work (Registered Organisations) Amendment Bill—will provide certainty and high standards for the operation of the members of registered organisations. It is the certainty they are entitled to expect. It really does seem quite ironic that we should be here defending the rights of the workers against an attack by those opposite on the rights of workers by their refusal to allow this particular bill to go through. This bill is just about governance. We talk about governance in here day in, day out. I think that we have to see a transparent and robust governance structure, and we need to make sure that the compliance regime will deter people from doing wrong. We have to provide first-class governance for registered organisations, and I think there is absolutely no doubt that this particular piece of legislation will provide a much better environment for everybody in Australia. It will provide certainty, transparency and clarity, and it will give our economy, our businesses, our employees and our employers the kind of certainty and surety needed to be able to go into the future.

It is with great pleasure that I stand here to say that I very much support this legislation. I call on those opposite to reconsider their opposition to this piece of legislation, because I think it is a very sad indictment on them that they would seek to vote down a piece of legislation that seeks to look after the workers of this country.

Senator ABETZ (Tasmania—Leader of the Government in the Senate, Minister Assisting the Prime Minister for the Public Service and Minister for Employment) (21:20): I thank all honourable senators for their contributions to the Fair Work (Registered Organisations) Amendment Bill 2014 [No. 2] debate.

Registered organisations play an important role in the affairs of workplace relations in this nation. Registered organisations are given special privileges under the Fair Work Act. With those privileges should come countervailing responsibilities. Every year, hundreds of thousands of people pay hard-earned wages—literally hundreds of dollars per annum—as dues to unions and, similarly, small businesses pay employer organisations in Australia. Those organisations are known as 'registered organisations'.

Regrettably, the rorts, the rackets and the rip-offs have been in the media on an almost daily basis. Think Michael Williamson, former federal President of the ALP; think Thomson, the former Labor member for Dobell; think Transport Workers Union; think CFMEU; and, indeed, think Mr Shorten's own union, the Australian Workers Union. In short, the community strongly favours these reforms.

To do nothing is not a responsible option. It is simply no longer tenable to argue that the present system is adequate to deal with or to discourage the kind of behaviour that we have witnessed. Regrettably, it is systemic. The government believes that the majority of registered organisations in fact do the right thing, and indeed in many cases maintain higher standards than would be required under this legislation. Nevertheless, there are systemic issues.

The Health Services Union case illustrates that, unfortunately, financial impropriety can and does occur under the current government's regime for registered organisations. The charges and allegations against former ALP member of parliament Craig Thomson, and former national president of the ALP Michael Williamson in their capacity as officers of the
Health Services Union are detestable, shocking and unacceptable. Mr Thomson is still facing allegations that his 2007 federal election campaign was bankrolled by siphoning union money without authorisation. Mr Williamson has pleaded guilty to misusing almost $1 million of Health Services Union members’ funds. He has also been accused of destroying documents and hindering investigations. Members of the Health Services Union are rightly asking how this gross breach of trust could happen.

Let's not forget: Mr Shorten and Senator Wong were the chief defenders of the Mr Williamsons and the Mr Thomsons of this world. Regrettably, Labor and the Greens political parties are the recipients of literally millions of dollars from these organisations, and that is why they are so silent on matters of corruption in these organisations. The Health Services Union investigation exposed the many significant shortfalls in the current framework. The investigation into Mr Thomson of the Health Services Union by the Fair Work Commission cost taxpayers almost $4 million. The report took three years to produce and, now, eight years after the initial breaches, court action is, unbelievably, still ongoing. Clearly there is something wrong with this framework. That is why there is a need for this bill.

The bill will establish an independent watchdog, the Registered Organisations Commission, to monitor and regulate registered organisations with enhanced investigation and information-gathering powers to ensure that the law is upheld. It will strengthen requirement for officers' disclosure of only material personal interests and related voting and decision-making rights, and it will change the grounds for disqualification and ineligibility for office. It will strengthen the existing financial accounting disclosure and transparency obligations. It will increase civil penalties and introduce criminal offences for serious breaches of officers' duties, as well as introducing new offences in relation to the conduct of investigations.

Importantly—and this is very important for honourable senators to note—this bill will fix the rushed, and quite frankly silly, amendments made by the former government under Mr Shorten that require even some shop stewards around Australia to disclose their husband’s, their wife’s or children’s income and assets. These were requirements imposed by Mr Shorten, the current leader of the Australian Labor Party, and we want to fix up this mess—but more on that later.

I want to take time to address some of the concerns that have been raised by senators. In relation to penalties: the penalties will be imposed only by the courts. We know that the courts have had an issue with the current framework, when even Federal Court judge Anthony North made these almost unprecedented comments last year, ‘The penalties are rather beneficially low—beneficial to wrongdoers’. And the Labor Party and Greens want to vote for these penalties that are ‘beneficial to wrongdoers’ to be maintained. In other words, the penalty does not fit the gravity of the offence. So why would any senator seek to vote to keep that situation in place when Federal Court judge Anthony North has come to that inescapable conclusion? It is very compelling, very persuasive and a matter of regret that the Australian Labor Party and the Greens have not succumbed to the logic and wisdom of Justice North on this occasion.

I simply pose the question: why should a corrupt union official who has ripped off hundreds of thousands of dollars from a union only be liable for a fine of $10,800 when for the same corrupt conduct a company director would be liable for five years imprisonment or a
fine of $360,000 for ripping off shareholders? What is the material difference, what is the moral difference, between a company director ripping off shareholders, and a union official, or for that matter an employer official, ripping off members? Simple: there is no moral difference; there is no material difference; there should be no material difference between the penalties.

Some registered organisations have indicated concern that the new penalties will mean that they will have difficulty in recruiting people to take on responsibilities. If that is the case, it is a very sad reflection and, quite frankly, I do not believe it. It is very simple: no wrongdoing, no penalty. And the penalty of course would be imposed by the court. The only people who have anything to fear are those with wrongdoing on their minds.

A rigorous structure and process will be in place for investigation and prosecution of alleged wrongdoing. Officers who are operating within the law have no reason to fear taking on official responsibilities. The overwhelming number of officers who are already doing the right thing should be comforted to know that unlawful behaviour will be dealt with, thus ensuring ongoing member confidence in registered organisations as a whole.

More importantly, I would invite honourable senators to recognise that this bill actually cleans up the mess created by Mr Shorten and the former government, which does actually act as a disincentive to good people taking on responsibilities. Our legislation will amend the disclosure requirement for officers of registered organisations, to more closely align them with the Corporations Act.

I simply say to those who have railed against these provisions and the others I go through: 'Keep in mind, vote down this bill and all those provisions will remain.' And, what is more, we will be seeking from the Fair Work Commission their attitude in relation to pursuing all these Labor-Green imposed requirements that the Labor Party put into the legislation and which they championed. We will also remove under our bill the more invasive disclosure requirements for officers to report family members' income and assets, thereby more closely aligning it with the Corporations Act. These provisions were so ham-fistedly put into the legislation by Mr Shorten, Labor and the Greens and they are having inappropriate and dire consequences for those who want to be involved in the trade union movement or employer organisations. Vote down this bill and those provisions remain.

The bill will align the material personal interest disclosure requirements for officers, so the disclosures only need to be made to the governing body and not to the entire membership. Mr Shorten's legislation requires it to go out to the entire membership, a complete breach of privacy and something I would have thought would, at least, have excited the interest of the Australian Greens, but they are nowhere to be heard on this breach of privacy. It is okay because Mr Shorten did it! You can actually get rid of this provision by supporting the legislation.

We will limit disclosures of related party payments to payments made above a certain prescribed threshold and with certain other exceptions based on those exceptions in the Corporations Act for member approval of related party transactions. And we would provide the commissioner with a discretion to waive training requirements of officers of registered organisations. For example, if a member is a certified and practising accountant they would not have to go through the course being provided by the Fair Work Commission, another example of Mr Shorten's manic, ham-fisted approach.
The unions want this provision removed. As the ACTU said in its submission to the Senate inquiry it is concerned that this 'may dilute the content of the care and diligence duty'. But it is in fact the extra penalties that the unions do not want, and that is why they have taken this regrettable attitude to the legislation, and that is why the Labor Party is in lockstep with them and doing the same.

The dissenting report from Labor and Greens senators in the recent Senate Education and Employment Legislation Committee inquiry demonstrate their attitude to this legislation. That is, they oppose the bill in its entirety, simply as a matter of principle. They even argue against our amendments that the trade union movement supports.

Let me be very clear. Unless these amendments pass this parliament, officials of registered organisations will run the very real risk of being in breach of the laws as they stand today in relation to those issues identified by the opposition themselves. When they are enforced and all the people out there rightly complain about the enforcement of these provisions, we will say to them, 'Thank the Australian Greens and the Australian Labor Party for not removing these provisions when they actually had the opportunity of doing so and assisting in cleaning up certain elements in the trade union movement.'

It does seem that we get lectures from those opposite, including some from the crossbench, that this is somehow an ideological attack on workers and that we somehow believe that all unions are corrupt. Even if you think that this is what we think, you are wrong. Even if you were to park that to the side, why is it that Mr Paul Howes, a former secretary of the Australian Workers Union, was able to say:

The reality is I do not have any issue with increasing the level of requirements and penalties on trade unions for breaching basic ethics like misappropriation of funds.

It is pretty simple stuff. Mr Howes does not have a problem with this legislation.

Another former leader of the Australian Workers Union, and indeed of the labour movement, now a Fair Work commissioner, Ian Cambridge, made a similar commentary, as did former Labor Attorney-General, Robert McClelland, as did former two ACTU presidents and Labor ministers, Martin Ferguson and Simon Crean. Are they also, somehow, all embarked on this ideological attack on workers? I do not think so. No, they are decent trade union leaders, who have seen a once proud organisation brought into the gutter through corruption and they want to see it cleaned up, and we as a government do as well.

We heard earlier Senator Cameron asserting that the Ai Group opposes this legislation. In actual fact, the Ai Group supports the bill, noting that it was pleased that many of the suggestions had been taken on board by the government. I suppose it should not surprise, but why is it that truth and fact is not seen to be a consideration from the frontbencher brought into this place by Mr Shorten to lead on this debate? To make the false assertion that the Ai Group does not support the bill, to say it with a straight face and to assert that that is the truth, when it must be known that it is untrue, beggars belief. For Senator Cameron to come into this place and assert one thing, whereas there is a public submission saying the exact opposite, indicates the paucity of factual information that Senator Cameron brings to these debates.

Senator Cameron and the ALP have previously suggested that the bill proposes to amend the act to restrict officers from taking part in certain decisions. Each and every one of his
allegations that he made relates to the legislation that is already in place and that we are seeking to amend.

Courtesy of the Australian Labor Party's ham-fisted approach in attempting to gazump the coalition when we announced our policy for a Registered Organisations Commission, Mr Shorten introduced all these, quite frankly, foolish provisions. They should be removed. They do not assert that this is part of the government's legislation. It is already there, courtesy of the ALP-Greens forcing this legislation through the Senate without proper debate. In his ham-fisted approach all the ills that Senator Cameron refers to are in fact already in the legislation, and we seek to remove them from the legislation and relieve Labor from their own embarrassment.

The only thing we are really asking for is that there be an increased regime of penalties and a bit more transparency. Senator Cameron, the Labor Party and the Greens want to live with all of these things that they are against for fear of one thing—increased penalties. Why are they scared of the courts imposing penalties if a wrongdoing has been uncovered? They will defend the Michael Williamsons of this world and they will defend the Craig Thomsons of this world irrespective of the mountain of evidence that has been provided in both those cases.

This is a policy on which the government went to the last election. It was well and truly ventilated and put before the Australian people. I recall debating matters workplace relations with Mr Shorten in a televised debate broadcast nationally and the registered organisations commission, Mr Shorten could not criticise and it is quite obvious why. Yet here in this place, they will use their numbers to try to once again block any attempt to clean up the trade union movement—an attempt that has the support of two former ACTU presidents, two former distinguished secretaries of the Australian Workers Union and so the list goes on.

People who were the heart and soul of the union movement, those who were anxious and concerned to ensure that the union movement had a good reputation, their reputations are now being trashed by the Labor Party because they want to preserve the domain of the corrupt union official. We believe overwhelmingly union officials are honest, honourable individuals that have a very important role to play in the workplace relations landscape. However, it is clear when you have got this legacy of issues from a whole range of unions that there has to be some degree of clean-up. The Registered Organisations Commission would provide such a mechanism. The only fear that people need have if they do wrong is they will not be able to weasel around for years on end like Craig Thomson was able to do and keep the hapless Gillard government in power; they would be brought to account lot quicker with a lot more serious consequences.

We introduced this legislation within the first sitting week of the parliament because we considered it to be so important. Now it has come before the Senate yet again and I invite honourable senators to support this very important measure.

The PRESIDENT: The question is that the bill be read a second time.

The Senate divided. [21:44]

(The President—Senator Parry)

Ayes .....................33
Noes .....................34
Majority ...............1
Senator Scullion did not vote, to compensate for the vacancy caused by the resignation of Senator Milne.

Question negatived.
Crimes Legislation Amendment (Powers, Offences and Other Measures) Bill 2015

Second Reading

Debate resumed on the motion:

That this bill be now read a second time.

Senator JACINTA COLLINS (Victoria) (21:47): With the two minutes available for this debate this evening, I will make some brief points on the Crimes Legislation Amendment (Powers, Offences and Other Measures) Bill 2015, which contains a range of measures to improve Commonwealth criminal justice arrangements.

The bill includes amendments to improve the operation and effectiveness of the serious drug and precursor offences in part 9.1 of the Criminal Code Act 1995—the Criminal Code. It includes amendments to the Criminal Code to clarify the war crime offence of outrages upon personal dignity in a non-international armed conflict and to expand the definition of forced marriage in the Criminal Code to include circumstances in which a victim does not freely and fully consent because he or she is incapable of understanding the nature and effect of a marriage ceremony. There are amendments to increase the penalties for the forced marriage offences in the Criminal Code to ensure that they are commensurate with the most serious slavery related facilitation offences.

The bill includes amendments to rectify administrative inefficiencies, address certain legislative anomalies and clarify provisions in part IB of the Crimes Act 1914 relating to federal offenders. It includes amendments to allow the interstate transfer of federal prisoners to occur at a location other than a prison and amendments to facilitate information sharing about federal offenders between the Attorney-General's Department and relevant third-party agencies.

The bill amends the Anti-Money Laundering and Counter-Terrorism Financing Act 2006 to clarify and address enforceability issues and operational constraints identified by the Australian Transaction Reports and Analysis Centre—AUSTRAC. There are also amendments to allow the Integrity Commissioner to perform his or her functions more efficiently and effectively while improving the general operation of the Law Enforcement Integrity Commissioner Act 2006. The bill includes amendments to the Australian Crime Commission Act 2002 to improve the efficiency and effectiveness of the Australian Crime Commission's special operations and investigations. The bill amend the Proceeds of Crime Act 2002 to increase penalties for failing to comply with a production order—

Debate interrupted.

ADJOURNMENT

The ACTING DEPUTY PRESIDENT (Senator Whish-Wilson) (21:50): Order! I propose the question:

That the Senate do now adjourn.

Netball World Cup

Senator CASH (Western Australia—Assistant Minister for Immigration and Border Protection and Minister Assisting the Prime Minister for Women) (21:50): I rise tonight to speak in celebration of Australia's netball team, the Australian Diamonds, on their renewed
title of world champions. Sunday's gold medal match at Sydney's Allphones Arena was, without a doubt, a hard fought match and an intense clash, with the Diamonds conquering the New Zealand Silver Ferns 58 points to 55. The victory secured the Diamonds' third successive world championship title, their 11th overall, and has shown all Australians and, indeed, the world just how brightly the Australian Diamonds really do shine.

Led by coach Lisa Alexander and captain Laura Geitz, our Diamonds showed tenacity, strength and sheer brilliance to emerge victorious once again. I congratulate Caitlin Bassett, Erin Bell, Rebecca Bulley, Kimberlee Green, Paige Hadley, Renae Hallinan, Sharni Layton, Natalie Medhurst, Kimberley Revaillion, Caitlin Thwaites and Julie Corletto, who played her final match for Australia and retires on a great high.

The Netball World Cup is held every four years and is the premier international competition in netball. For the second time Sydney hosted the event, bringing together 16 nations in a tournament that showcased the world's best. The Netball World Cup was previously held in Sydney in 1991 and in my home town of Perth in 1967. The 2015 competition was truly global in nature, with qualifying teams from Barbados, England, Fiji, Jamaica, New Zealand, Malawi, South Africa, Samoa, Scotland, Singapore, Sri Lanka, Trinidad and Tobago, Uganda, Wales and Zambia.

To support the engagement in netball and the World Cup, the Abbott government invested $3 million to assist Netball Australia to deliver the sport's ultimate event. The government also invested $3 million towards one of the two host venues, Netball Central, ensuring another legacy from this great event. A further $2 million was allocated to support high performance in netball through the Australian Institute of Sport. The government also provided additional funding of $300,000 to support the participation of qualified teams from Zambia, Uganda, Sri Lanka, Malawi and Samoa.

During the Netball World Cup we have been continuing to encourage school children to get involved in our new $100 million Sporting Schools program, which aims to boost participation in sport. Minister Sussan Ley has been driving Sporting Schools to get our nation's children more active by giving primary schools across the country grants to access to accredited coaches and programs, with the aim of creating healthy habits that last a lifetime.

And more than 700 women from 31 different sports have been funded to assist in reaching their leadership potential through the Women Leaders in Sport program in the past year. It supports women in all levels of the sporting industry, including coaches, administrators, officials and board directors.

I am also pleased to note that a number of world records were broken during the 2015 world cup. We had the world's biggest netball clinic, which was held during the cup and included more than 555 schoolchildren from 40 schools along with teachers and qualified coaches. There were record crowds at a number of games, culminating in the gold medal match with almost 16,849 in attendance at Allphones Arena. Nearly 100,000 people attended a match at Sydney Olympic Park over the 10 days of the competition, and FanFEST—the ultimate activity hub for fans—saw 65,292 people throughout the tournament.

I would also like to take this opportunity to congratulate former player, umpire and national coach Ms Joyce Brown for her ascension to 'legend' status in the Netball Australia Hall of Fame as announced at the Netball Legends Memories and Milestones Lunch. Joyce is one of
the most respected and admired members of the netball family and was unanimously chosen for this honour by the board of Netball Australia.

Importantly, I also want to commend Netball Australia and the World Cup organising committee for all the hard work that made for such a successful and memorable event, with INF President Molly Rhone saying that 'the 2015 Netball World Cup in Sydney is the best one ever!'

Netball, as we know, has the highest participation rate of any women's sport in Australia, with 350,000 registered players and an estimated one million players nationwide. It is enjoyed by many more Australians who spend their evenings and Saturday mornings standing on sidelines around the country, cheering on friends and family. Netball is part of the sporting and social fabric of almost every community in Australia and is particularly popular in our country towns. It is truly a grassroots movement with approximately 80 per cent of all netball being played at local and state clubs.

Netball teaches young girls and women how to be assertive and to always play fair. It teaches them how to be gracious in success and in failure and to always be a team player. The sport helps young women understand their potential and to learn how to lead. Despite it being the leading participation sport for females in our country, netball has only recently become a large spectator sport. The Australian government recognises the contribution organisations like Netball Australia make in encouraging women and girls to actively participate in sport within their community. They are also pivotal for helping young women to understand their potential and for developing and promoting positive role models for future generations. So I want to pay particular tribute to Netball Australia for over half a century of teaching young girls these important life lessons.

Our Australian Diamonds are exceptional examples. They show what can be achieved through hard work and determination. They give girls the confidence to be successful in any arena they choose. I hope that in hosting this World Cup we are helping all women's sport claim the attention it so rightly deserves.

On the subject of women's sport: it has been an absolutely fantastic week for Australia. The men might not be lifting their weight and living up to expectations, but certainly our sporting women are bathing in green-and-gold glory. I also pay tribute to our Southern Stars. On Friday the Southern Stars cricket team decimated England by 161 runs to win the one-off women's test, edging closer to regaining the Ashes. The Southern Stars now lead the series by six points and are firming as favourites to beat the Brits in England for the first time in almost a decade and a half. The 161-run victory was more than double the entire number of runs the men's team scored in the final test a few days prior, and they did it with more than five hours of play to spare.

Of course there is also the women's basketball team, the Opals, who set the scene for a great weekend for women's sport when again they defeated the Kiwis on Saturday by a magnificent 20 points. They have now beaten the New Zealanders at every Oceania championship since 1974, which equates to 38 wins to zero.

As our Prime Minister has stated, 'Women's sport matters.' I am so delighted, like all of us here in the Senate, that Australian sportswomen are finally on the front cover of our
magazines and our national newspapers and are gaining the attention and the accolades they so richly and rightly deserve.

**Goodes, Mr Adam**

_Senator PERIS (Northern Territory) (21:58):_ I rise today to speak about a truly inspiring Australian who has generated much-needed debate on who we are as a nation. He has forced us to question what kind of nation we aspire to be. The whole country was polarised by Adam Goodes's firm stance on naming and calling out racism in our football stadiums and off the field. Unfortunately, not everyone agrees with him, and the level of malice and criticism directed at Adam Goodes by some sections of our community can only be described as pure racism. Such was the viciousness of the public attack on Adam that it has revealed a deeply ingrained nastiness in our national psyche. It has also created anxiety and fear that we may no longer recognise our neighbours, our friends, our colleagues and even some of our own family members. Some of them might be racist—or they might not be and do not agree with our own racist view—but why did it come to this, and how can a proud Aboriginal man whose sporting skills and work ethic saw him drafted into the AFL's Sydney Swans in 1997 and saw him rise to the top of his game, earning two Brownlow Medals and going on to become the 2014 Australian of the Year, become the target of sustained racist booing and bullying while he was in the workplace: on the footy field?

Racism stops with me. Racism should stop with everyone. My son idolises Adam Goodes. My son loves football. My son is also a proud Aboriginal boy. The last thing I want is for my son to grow up in a country where he is afraid to express himself and his culture. That is what scares me most.

I want him to feel okay about being Aboriginal and feel okay about expressing his Aboriginality. I am afraid that the debate about Adam Goodes has made people—not just Aboriginal people but people of all backgrounds—afraid to be themselves. This is not warm and fuzzy. This is not bleeding-heart thinking. This is what makes Australia great. This is what makes Australia what it is today. Our nation was founded on immigration and multiculturalism. Our nation's greatness owes itself to that.

I want to now focus on the way forward, on the positive side of this debate. Forget all the negativity that has surrounded this saga; let us look to the future. I think it is important to focus on what we can achieve from now on, thanks to the powerful stance that people like Adam Goodes have taken. There are lessons to be learned from this. What he has critically done is remind people that being Aboriginal is something to be proud of. It is something to be valued. Just like being an Australian is something to be proud of. We cannot forget that Aboriginal people have a culture that is 40,000 years old. We can call that our own, and nobody can take that away from us.

What Adam Goodes did was show young Aboriginal boys and men that their Aboriginality is not something to be ashamed of. He has shown them that their Aboriginality represents something great. It represents thousands of years of history. It represents strength, family, culture and pride. He has reminded all Aboriginal people that if you use that pride in culture you can achieve anything in life. After all, nothing can be achieved by anyone without first feeling proud of yourself.
He has reminded all of Australia that at the end of the day we stand united. We are all human beings, we all have our own cultures, our own beliefs, our own languages, our own stories, our own histories but, in the end, we are all united in our diversity. We all bleed the one red blood. If we are to move forward as a nation and if we are going to close the gap on Aboriginal disadvantage, Aboriginal people must have a sense of pride in themselves and their culture. We cannot achieve anything without first believing in ourselves.

Adam Goodes has reminded us that it is okay to stand up for yourself and your history, no matter what that history is. If we see racism or discrimination, let us not ignore it—let us fight it head on by having an open and truthful discussion and debate about it. Let us educate ourselves about each other, about the deep hurt that people feel when they have been denigrated, vilified and made to feel less human by those who are weak of mind and mean spirited.

I stand here a proud Labor woman, because Labor is an inclusive party. It was Labor that ended the Wave Hill walk-off when Gough Whitlam handed back the Gurindji land to Vincent Lingiari. It was Labor and Gough who enacted the racial discrimination act. It was Labor that formally apologised to the stolen generations. It is Labor that will continue to stand up for all Australians.

I will end on these words from Adam Goodes as he accepted his 2014 Australian of the Year Award:

Growing up as an indigenous Australian, I have seen and experienced my fair share of racism. Whilst it has been difficult a lot of the time, it has also taught me a lot and shaped my values and what I believe in today.

There are always two ways we can look at a situation—we can choose to get angry or not, we can choose to help others or not, or choose to be offended or not, we can keep our silos or educate ourselves and others about racism and minority populations.

It is not just about taking responsibility for your own actions, but speaking to your mates when they take our anger on loved ones, minority groups or make racist remarks.

We are all equal and the same in so many ways. My hope is that we as a nation can break down the silos between races, break down those stereotypes of minority populations, Indigenous populations and all those other minority groups.

I hope we can be proud of our heritage regardless of the colour of our skin and be proud to be Australian.

To Adam Goodes, I say: congratulations. You have done your country proud and you have made me proud to be Aboriginal and Australian. I will continue to stand with you to make our streets and public arenas safer places for all people of colour and difference. Thousands of Australians also stand with you.

I hope the controversy surrounding Adam Goodes can lead to something positive. I hope it can lead to better outcomes for everyone. I have faith in the Australian people. I have faith that we can strive to work together and end ugly passages like what we have seen with Adam Goodes. Keep going, Adam Goodes, we are all with you.

People for the Ethical Treatment of Animals

Senator LEYONHJELM (New South Wales) (22:05): I would like to tell you a story about Foamie the Sheep. Foamie debuted in People for the Ethical Treatment of Animals'
recent attack on Australia's wool industry. Cradled in the arms of Jona Weinhofen, a vegan musician, Foamie played the part of a sheep that had been cut and bloodied during the shearing process.

Predictably, there was outrage: from woolgrowers, who were adamant that practices like that did not happen in their sheds, and from consumers, who were horrified at the cruelty. Then people started to notice that Foamie was a funny shape. Comments about Chernobyl and radiation were made. It seemed that PETA had managed to find a mutant sheep.

There is, of course, an explanation for this. Foamie was fake. And, in telling you about Foamie the Fake Sheep's adventures here, I want to explain how PETA is as fake as the foam prop they used in their anti-wool campaign. PETA sells itself as an animal-rights organisation, but PETA's principal shelter, in Virginia, in the US, between the years 1998 and 2014 killed 86.64 per cent all the cats and dogs that came through its doors. As the Virginia Department of Agriculture and Consumer Services found during its investigation of the facility, most of those animals were put down within 24 hours and never made available for adoption.

Why, you may ask, is an animal-rights organisation killing the dogs and cats in its shelter? In order to answer this, you need to know that there are two different ways of understanding the relationship between humans and animals. The first is animal welfare, which is almost universal among veterinarians like me.

Animal welfare advocates argue that animals must be treated with consideration, must not be mistreated and, insofar as it is possible, must be kept healthy. A concern for animal welfare also extends to those animals used for purposes of medical research. Indeed, bioscience laboratories often provide some of the best conditions available for animals anywhere in the world. An animal welfare position also accepts that animals can work for human beings and also be their companions; it is wide enough to accommodate a kelpie on a sheep farm, the ponies at a riding school, guide dogs for the blind and your new pet kitten. People who support an animal welfare position believe strongly that, when animal cruelty is discovered—whether by the RSPCA, the police or a private citizen—it must be reported quickly. This is because we want the cruelty to stop.

An animal rights position, by contrast, looks at animals through the same lens as various human rights campaigns have historically looked at people. It argues not only that animals should not be mistreated, but also that they should not be exploited. Inevitably, this leads to a position that advocates the end of animal use by humans. Animal rights activists like PETA want us all to become vegetarians, preferably vegans. Ingrid Newkirk, PETA's President, is up-front about the consequences of holding this view. 'It would be lovely,' she says, 'if we stopped this whole notion of pets altogether.' PETA's overall goal is 'total animal liberation'. This means the complete abolition of meat, milk, cheese, eggs, honey, zoos, aquariums, circuses, wool, leather, fur, silk, hunting, fishing and pet ownership. PETA is also against all medical research that requires the use of animals, including research aimed at curing diseases such as AIDS and cancer. Paradoxically, because PETA thinks animals have rights—among other things, this means animals should not be owned—it becomes easier to run a shelter where most of the animals are killed, not adopted; it is an extension of the old argument that it is better to die free than live as a slave. Indeed, PETA has likened household pets to slaves.
So, back to Foamie the Sheep. After a collective national guffaw at PETA’s expense, most responses from the wool industry were civil and reasonable. ‘The facts are on our side,’ they say. ‘We are serious about improving animal welfare.’ ‘Maybe if we agreed to a little more regulation, PETA would be happy’. And, of course, ‘Why don’t we just sit down and work things out like nice people?’ This will not work. PETA and the other animal rights organisations follow a predictable ‘activist pattern’. They start with exposure of an isolated outrage, then follow public outrage with moves to regulate where banning proves impossible. The industry—whether wool, beef, live export, forestry or fisheries—is accused of harming the planet, animal cruelty, destroying the future of our children and being bad corporate citizens. There are threats of a campaign to expose it, focusing on its brand and image or those of its major customers. In the case of the beef industry, attention was directed at McDonalds, major processors and the supermarkets. Industry representatives, unfamiliar with animal rights activism, often passively acquiesce to new regulatory arrangements. They are unaware that the regulations are proposed not with a view to improving the welfare of animals, but to kill the industry in the long term.

PETA are not nice people. They may compromise with Australia’s woolgrowers today, but only to give themselves time to begin a fresh attack tomorrow. Hysterical claims are what prompt donations from a gullible public. And the only reason they may leave woolgrowers alone for a time is because they are focusing on another sector such as chickens or pigs. Quite simply, PETA is the enemy of the meat and livestock industries, any sport involving animals and any industry that affects animals in the wild. PETA must not only be defeated; it should be destroyed by any legal means available. I have some thoughts on those means.

When PETA launched its campaign against mulesing a decade ago, Australian Wool Innovation adopted a strategy of appeasement. Millions of dollars were spent promoting alternative means of flystrike control and finding non-surgical alternatives to mulesing. As an agribusiness consultant at the time, I actually had a role in seeking commercial partners for some of those alternatives. In the end, though, it became obvious that AWI had misjudged its members. Mulesing is cheap, effective and, especially compared to flystrike, utterly defensible. Woolgrowers simply refused to give it up. The market for wool from unmulesed sheep—supposedly driven by garment manufacturers and retailers that PETA had intimidated—never developed. In the end it is consumers, not retailers, who make markets. The PETA roar was exposed as the squeak of an impotent mouse.

The animal industries should not forget this lesson. PETA is not invincible; it can be challenged and beaten. There are many ways the fight can occur, and I am sure it will not be limited to one. In the court of public opinion, there are social and mainstream media. In the courts of justice, there are criminal and civil remedies against trespass, incitement, malicious damage, defamation and nuisance. And, of course, there is the court of political opinion, in which politicians, with little knowledge of agriculture and no interest in it or livestock, may find themselves being asked to do something. But, wherever the battle takes place, there should be no appeasement. Any step back will never be regained. The animal industries must stand their ground, fight and not give an inch.

Senate adjourned at 22:14
The following documents were tabled pursuant to statute:

[Legislative 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.]


*Banking Act 1959*—Banking (consent to assume or use restricted word or expression) No. 1 of 2015 [F2015L01254].

*Corporations Act 2001*—


Corporations Amendment (Financial Services Information Lodgement Periods) Regulation 2015—Select Legislative Instrument 2015 No. 135 [F2015L01270].

*Defence Act 1903*—Woomera Prohibited Area Rule 2014—Determination of an Exclusion Period for the Green Zone [F2015L01257].


*Torres Strait Fisheries Act 1984*—Torres Strait Fisheries Logbook Instrument 2015 [F2015L01256].

*Veterans' Entitlements Act 1986*—


Veterans' Entitlements (Veterans' Children Education Scheme – Guidance and Counselling Services) Determination 2000 [F2015L01265].

Veterans' Vocational Rehabilitation Scheme—2015 No. R11 [F2015L01263].

Tabling

The following documents were tabled pursuant to standing order 61(1)(b):