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SITTING DAYS—2013

<table>
<thead>
<tr>
<th>Month</th>
<th>Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>February</td>
<td>5, 6, 7, 25, 26, 27, 28</td>
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<td>March</td>
<td>12, 13, 14, 18, 19, 20, 21</td>
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<td>May</td>
<td>14, 15, 16</td>
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<td>June</td>
<td>17, 18, 19, 20, 24, 25, 26, 27</td>
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<td>20, 21, 22, 26, 27, 28, 29</td>
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<td>9, 10, 11, 12, 16, 17, 18, 19</td>
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<td>1, 2, 3, 28, 29, 30, 31</td>
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<td>November</td>
<td>18, 19, 20, 21, 25, 26, 27, 28</td>
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- BRISBANE  936AM
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FORTY-THIRD PARLIAMENT
FIRST SESSION—NINTH PERIOD

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

Senate Office holders

President—Senator Hon. John Joseph Hogg
Deputy President and Chair of Committees—Senator Stephen Shane Parry
Temporary Chairs of Committees—Cory Bernardi, Thomas Mark Bishop, Suzanne Kay Boyce, Douglas Niven Cameron, Patricia Margaret Crossin, Sean Edwards, David Julian Fawcett, Mark Lionel Furner, Scott Ludlam, Gavin Mark Marshall, Bridget McKenzie, Claire Mary Moore, Louise Clare Pratt and Ursula Mary Stephens

Leader of the Government in the Senate—Senator Hon. Stephen Michael Conroy
Deputy Leader of the Government in the Senate—Senator Hon. Penelope Ying Yen Wong
Leader of the Opposition in the Senate—Senator Hon. Eric Abetz
Deputy Leader of the Opposition in the Senate—Senator Hon. George Henry Brandis QC
Manager of Government Business in the Senate—Senator Hon. Jacinta Mary Ann Collins
Manager of Opposition Business in the Senate—Senator Mitchell Peter Fifield

Senate Party Leaders and Whips

Leader of the Australian Labor Party—Senator Hon. Stephen Michael Conroy
Deputy Leader of the Australian Labor Party—Senator Hon. Penelope Ying Yen Wong
Leader of the Liberal Party of Australia—Senator Hon. Eric Abetz
Deputy Leader of the Liberal Party of Australia—Senator Hon. George Henry Brandis QC
Leader of The Nationals—Senator Barnaby Thomas Gerard Joyce
Deputy Leader of The Nationals—Senator Fiona Nash
Leader of the Australian Greens—Senator Christine Anne Milne
Chief Government Whip—Senator Anne McEwen
Deputy Government Whips—Senators Carol Louise Brown and Helen Beatrice Polley
Chief Opposition Whip—Senator Helen Kroger
Deputy Opposition Whips—Senators David Christopher Bushby and Christopher John Back

The Nationals Whip—Senator John Reginald Williams
Australian Greens Whip—Senator Rachel Mary Siewert

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<td>30.6.2017</td>
<td>AG</td>
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<td>30.6.2017</td>
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(1) Term expires at close of day next preceding the polling day for the general election of members of the House of Representatives.

(2) Chosen by the Parliament of New South Wales to fill a casual vacancy (vice H. Coonan, resigned 22.8.11), pursuant to section 15 of the CoNative Title Respondent Funding program.

(3) Chosen by the Parliament of New South Wales to fill a casual vacancy (vice Hon. M. Arbib, resigned 5.3.12), pursuant to section 15 of the Constitution.

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

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

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

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

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

**PARTY ABBREVIATIONS**


**Heads of Parliamentary Departments**

Clerk of the Senate—R Laing
Clerk of the House of Representatives—B Wright
Secretary, Department of Parliamentary Services—C Mills
Parliamentary Budget Officer—P Bowen
## GILLARD MINISTRY

<table>
<thead>
<tr>
<th>Title</th>
<th>Minister</th>
</tr>
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<tbody>
<tr>
<td><strong>Prime Minister</strong></td>
<td>The Hon Julia Gillard MP</td>
</tr>
<tr>
<td><em>Minister Assisting the Prime Minister on Digital Productivity</em></td>
<td>Senator the Hon Stephen Conroy</td>
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<tr>
<td><em>Minister Assisting the Prime Minister on Asian Century Policy</em></td>
<td>The Hon Dr Craig Emerson MP</td>
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<tr>
<td><strong>Minister for Social Inclusion</strong></td>
<td>The Hon Mark Butler MP</td>
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<tr>
<td><em>Minister Assisting the Prime Minister on Mental Health Reform</em></td>
<td>The Hon Mark Butler MP</td>
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<tr>
<td><strong>Minister for the Public Service and Integrity</strong></td>
<td>The Hon Mark Dreyfus QC MP</td>
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<tr>
<td><strong>Cabinet Secretary</strong></td>
<td>The Hon Jason Clare MP</td>
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<td>The Hon Warren Snowdon MP</td>
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<tr>
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<td>The Hon Dr Andrew Leigh MP</td>
</tr>
<tr>
<td><strong>Treasurer</strong></td>
<td>The Hon Wayne Swan MP</td>
</tr>
<tr>
<td><em>(Deputy Prime Minister)</em></td>
<td>The Hon Bill Shorten MP</td>
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<tr>
<td><strong>Minister for Financial Services and Superannuation</strong></td>
<td>The Hon David Bradbury MP</td>
</tr>
<tr>
<td><strong>Assistant Treasurer</strong></td>
<td>The Hon Bernie Ripoll MP</td>
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<tr>
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<td>The Hon Stephen Conroy</td>
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<tr>
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<td>Senator the Hon Stephen Conroy</td>
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<td>Minister for Small Business</td>
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</tr>
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<td>Parliamentary Secretary for Indigenous Employment and Economic Development</td>
<td>Senator the Hon Jacinta Collins</td>
</tr>
<tr>
<td>Parliamentary Secretary for School Education and Workplace Relations</td>
<td>The Hon Bernie Ripoll MP</td>
</tr>
<tr>
<td>(Manager of Government Business in the Senate)</td>
<td>The Hon Yvette D'Atch MP</td>
</tr>
<tr>
<td>Minister for Health</td>
<td>The Hon Tanya Plibersek MP</td>
</tr>
<tr>
<td>Minister for Mental Health and Ageing</td>
<td>The Hon Mark Butler MP</td>
</tr>
<tr>
<td>Minister for Indigenous Health</td>
<td>The Hon Warren Snowdon MP</td>
</tr>
<tr>
<td>Parliamentary Secretary for Mental Health</td>
<td>The Hon Melissa Parke MP</td>
</tr>
<tr>
<td>Parliamentary Secretary for Health and Ageing</td>
<td>The Hon Shayne Neumann MP</td>
</tr>
<tr>
<td>Minister for Immigration and Citizenship</td>
<td>The Hon Brendan O'Connor MP</td>
</tr>
<tr>
<td>Minister for Multicultural Affairs</td>
<td>Senator the Hon Kate Lundy</td>
</tr>
<tr>
<td>Parliamentary Secretary for Multicultural Affairs</td>
<td>Senator the Hon Matt Thistlethwaite</td>
</tr>
<tr>
<td>Attorney-General</td>
<td>The Hon Mark Dreyfus QC MP</td>
</tr>
<tr>
<td>Minister for Emergency Management</td>
<td>The Hon Mark Dreyfus QC MP</td>
</tr>
<tr>
<td>Minister Assisting on Queensland Floods Recovery</td>
<td>Senator the Hon Joe Ludwig</td>
</tr>
<tr>
<td>Minister for Home Affairs</td>
<td>The Hon Jason Clare MP</td>
</tr>
<tr>
<td>Minister for Justice</td>
<td>The Hon Jason Clare MP</td>
</tr>
<tr>
<td>Parliamentary Secretary to the Attorney-General</td>
<td>The Hon Shayne Neumann MP</td>
</tr>
<tr>
<td>Minister for Resources and Energy</td>
<td>The Hon Gary Gray AO MP</td>
</tr>
<tr>
<td>Minister for Tourism</td>
<td>The Hon Gary Gray AO MP</td>
</tr>
<tr>
<td>Minister Assisting for Tourism</td>
<td>Senator the Hon Don Farrell</td>
</tr>
<tr>
<td>Parliamentary Secretary for Human Services</td>
<td>Senator the Hon Jan McLucas</td>
</tr>
</tbody>
</table>

Each box represents a portfolio. **Cabinet Ministers are shown in bold type.** As a general rule, there is one department in each portfolio. However, there is a Department of Veterans' Affairs in the Defence portfolio. The title of a department does not necessarily reflect the title of a minister in all cases.
## SHADOW MINISTRY

<table>
<thead>
<tr>
<th>Title</th>
<th>Shadow Minister</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Leader of the Opposition</strong></td>
<td>The Hon Tony Abbott MP</td>
</tr>
<tr>
<td>Shadow Parliamentary Secretary Assisting the Leader of the Opposition</td>
<td>Senator Arthur Sinodinos</td>
</tr>
<tr>
<td><strong>Shadow Minister for Foreign Affairs</strong></td>
<td>The Hon Julie Bishop MP</td>
</tr>
<tr>
<td><strong>Shadow Minister for Trade</strong></td>
<td></td>
</tr>
<tr>
<td>(Deputy Leader of the Opposition)</td>
<td></td>
</tr>
<tr>
<td>Shadow Parliamentary Secretary for International Development Assistance</td>
<td>The Hon Teresa Gambaro MP</td>
</tr>
<tr>
<td><strong>Shadow Minister for Infrastructure and Transport</strong></td>
<td>The Hon Warren Truss MP</td>
</tr>
<tr>
<td>(Leader of The Nationals)</td>
<td></td>
</tr>
<tr>
<td>Shadow Parliamentary Secretary for Roads and Regional Transport</td>
<td><em>Mr Darren Chester MP</em></td>
</tr>
<tr>
<td><strong>Shadow Minister for Employment and Workplace Relations</strong></td>
<td>Senator the Hon Eric Abetz</td>
</tr>
<tr>
<td>(Leader of the Opposition in the Senate)</td>
<td></td>
</tr>
<tr>
<td>Shadow Minister for Employment Participation</td>
<td>The Hon Sussan Ley MP</td>
</tr>
<tr>
<td><strong>Shadow Attorney-General</strong></td>
<td>Senator the Hon George Brandis QC</td>
</tr>
<tr>
<td><strong>Shadow Minister for the Arts</strong></td>
<td></td>
</tr>
<tr>
<td>(Deputy Leader of the Opposition in the Senate)</td>
<td></td>
</tr>
<tr>
<td>Shadow Minister for Justice, Customs and Border Protection</td>
<td>Mr Michael Keenan MP</td>
</tr>
<tr>
<td>Shadow Parliamentary Secretary to the Shadow Attorney-General</td>
<td>Senator Gary Humphries</td>
</tr>
<tr>
<td><strong>Shadow Treasurer</strong></td>
<td>The Hon Joe Hockey MP</td>
</tr>
<tr>
<td>Shadow Assistant Treasurer and Shadow Minister for Financial Services and Superannuation</td>
<td>Senator Mathias Cormann</td>
</tr>
<tr>
<td>Shadow Parliamentary Secretary for Tax Reform</td>
<td>The Hon Tony Smith MP</td>
</tr>
<tr>
<td>(Deputy Chairman, Coalition Policy Development Committee)</td>
<td></td>
</tr>
<tr>
<td><strong>Shadow Minister for Education, Apprenticeships and Training</strong></td>
<td>The Hon Christopher Pyne MP</td>
</tr>
<tr>
<td>(Manager of Opposition Business in the House)</td>
<td></td>
</tr>
<tr>
<td>Shadow Minister for Childcare and Early Childhood Learning</td>
<td>The Hon Sussan Ley MP</td>
</tr>
<tr>
<td>Shadow Minister for Universities and Research</td>
<td>Senator the Hon Brett Mason</td>
</tr>
<tr>
<td>Shadow Minister for Youth and Sport</td>
<td>Mr Luke Hartsuyker MP</td>
</tr>
<tr>
<td>(Deputy Manager of Opposition Business in the House)</td>
<td></td>
</tr>
<tr>
<td>Shadow Parliamentary Secretary for Regional Education</td>
<td>Senator Fiona Nash</td>
</tr>
<tr>
<td><strong>Shadow Minister for Indigenous Affairs</strong></td>
<td>Senator the Hon Nigel Scullion</td>
</tr>
<tr>
<td>(Deputy Leader of the Nationals)</td>
<td></td>
</tr>
<tr>
<td>Shadow Minister for Indigenous Development and Employment</td>
<td>Senator Marise Payne</td>
</tr>
<tr>
<td><strong>Shadow Minister for Regional Development, Local Government and Water</strong></td>
<td>Senator Barnaby Joyce</td>
</tr>
<tr>
<td>(Leader of the Nationals in the Senate)</td>
<td></td>
</tr>
<tr>
<td>Shadow Minister for Regional Development</td>
<td>The Hon Bob Baldwin MP</td>
</tr>
<tr>
<td>Shadow Parliamentary Secretary for Northern and Remote Australia</td>
<td>Senator the Hon Ian Macdonald</td>
</tr>
<tr>
<td><strong>Shadow Parliamentary Secretary for Local Government</strong></td>
<td></td>
</tr>
<tr>
<td><strong>Shadow Parliamentary Secretary for the Murray-Darling Basin</strong></td>
<td>Senator Simon Birmingham</td>
</tr>
<tr>
<td><strong>Shadow Minister for Finance, Deregulation and Debt Reduction</strong></td>
<td>The Hon Andrew Robb AO MP</td>
</tr>
<tr>
<td>(Chairman, Coalition Policy Development Committee)</td>
<td></td>
</tr>
<tr>
<td>Shadow Special Minister of State</td>
<td>The Hon Bronwyn Bishop MP</td>
</tr>
<tr>
<td>Shadow Minister for COAG</td>
<td>Senator Marise Payne</td>
</tr>
<tr>
<td>(Chairman, Scrutiny of Government Waste Committee)</td>
<td>(Mr Jamie Briggs MP)</td>
</tr>
<tr>
<td><strong>Shadow Minister for Energy and Resources</strong></td>
<td>The Hon Ian Macfarlane MP</td>
</tr>
<tr>
<td>Shadow Minister for Tourism</td>
<td>The Hon Bob Baldwin MP</td>
</tr>
<tr>
<td>Title</td>
<td>Shadow Minister</td>
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</tr>
<tr>
<td>Shadow Minister for Defence</td>
<td>Senator the Hon David Johnston</td>
</tr>
<tr>
<td>Shadow Minister for Defence Science, Technology and Personnel</td>
<td>Mr Stuart Robert MP</td>
</tr>
<tr>
<td>Shadow Minister for Veterans' Affairs and Shadow Minister</td>
<td>Senator the Hon Michael Ronaldson</td>
</tr>
<tr>
<td>Assisting the Leader of the Opposition on the Centenary of ANZAC</td>
<td></td>
</tr>
<tr>
<td>Shadow Parliamentary Secretary for Defence Materiel</td>
<td>Senator Gary Humphries</td>
</tr>
<tr>
<td>Shadow Parliamentary Secretary for the Defence Force and Defence</td>
<td>Senator the Hon Ian Macdonald</td>
</tr>
<tr>
<td>Support</td>
<td></td>
</tr>
<tr>
<td>Shadow Minister for Communications and Broadband</td>
<td>The Hon Malcolm Turnbull MP</td>
</tr>
<tr>
<td>Shadow Minister for Regional Communications</td>
<td>Mr Luke Hartsuyker MP</td>
</tr>
<tr>
<td>Shadow Minister for Health and Ageing</td>
<td>The Hon Peter Dutton MP</td>
</tr>
<tr>
<td>Shadow Minister for Ageing</td>
<td>Senator Concetta Fierravanti-Wells</td>
</tr>
<tr>
<td>Shadow Minister for Mental Health</td>
<td></td>
</tr>
<tr>
<td>Shadow Parliamentary Secretary for Primary Healthcare</td>
<td>Dr Andrew Southcott MP</td>
</tr>
<tr>
<td>Shadow Parliamentary Secretary for Regional Health Services and</td>
<td>Dr Andrew Laming MP</td>
</tr>
<tr>
<td>Indigenous Health</td>
<td></td>
</tr>
<tr>
<td>Shadow Minister for Families, Housing and Human Services</td>
<td>The Hon Kevin Andrews MP</td>
</tr>
<tr>
<td>Shadow Minister for Seniors</td>
<td>The Hon Bronwyn Bishop MP</td>
</tr>
<tr>
<td>Shadow Minister for Disabilities, Carers and the Voluntary Sector</td>
<td>Senator Mitch Fifield</td>
</tr>
<tr>
<td>(Manager of Opposition Business in the Senate)</td>
<td></td>
</tr>
<tr>
<td>Shadow Minister for Housing</td>
<td>Senator Marise Payne</td>
</tr>
<tr>
<td>Shadow Parliamentary Secretary for Supporting Families</td>
<td>Mr Jamie Briggs</td>
</tr>
<tr>
<td>Shadow Parliamentary Secretary for the Status of Women</td>
<td>Senator Michaelia Cash</td>
</tr>
<tr>
<td>Shadow Minister for Climate Action, Environment and Heritage</td>
<td>The Hon Greg Hunt MP</td>
</tr>
<tr>
<td>Shadow Parliamentary Secretary for Environment</td>
<td>Senator Simon Birmingham</td>
</tr>
<tr>
<td>Shadow Minister for Productivity and Population</td>
<td>Mr Scott Morrison MP</td>
</tr>
<tr>
<td>Shadow Minister for Immigration and Citizenship</td>
<td></td>
</tr>
<tr>
<td>Shadow Parliamentary Secretary for Citizenship and Settlement</td>
<td>The Hon Teresa Gambaro MP</td>
</tr>
<tr>
<td>Shadow Parliamentary Secretary for Immigration</td>
<td>Senator Michaelia Cash</td>
</tr>
<tr>
<td>Shadow Minister for Innovation, Industry and Science</td>
<td>Mrs Sophie Mirabella MP</td>
</tr>
<tr>
<td>Shadow Parliamentary Secretary for Innovation, Industry, and Science</td>
<td>Senator the Hon Richard Colbeck</td>
</tr>
<tr>
<td>Shadow Minister for Agriculture and Food Security</td>
<td>The Hon John Cobb MP</td>
</tr>
<tr>
<td>Shadow Parliamentary Secretary for Fisheries and Forestry</td>
<td>Senator the Hon Richard Colbeck</td>
</tr>
<tr>
<td>Shadow Minister for Small Business, Competition Policy and Consumer</td>
<td>The Hon Bruce Billson MP</td>
</tr>
<tr>
<td>Affairs</td>
<td>Senator Scott Ryan</td>
</tr>
<tr>
<td>Shadow Parliamentary Secretary for Small Business and Fair Competition</td>
<td></td>
</tr>
</tbody>
</table>
CONTENTS

MONDAY, 24 JUNE 2013

Chamber
STATEMENT BY THE PRESIDENT— .......................................................... 3681
ParlView .................................................................................. 3681
BILLS—
Constitution Alteration (Local Government) 2013—
Second Reading .......................................................................... 3681
BUSINESS—
Rearrangement ........................................................................ 3715
QUESTIONS WITHOUT NOTICE—
Senate .......................................................................................... 3736
Tasmanian Wilderness World Heritage Area ........................................ 3737
Superannuation ........................................................................ 3739
Superannuation ........................................................................ 3740
Homelessness ........................................................................ 3742
DisabilityCare Australia ................................................................. 3743
Australian Education Bill 2013 ...................................................... 3745
Myanmar .................................................................................. 3746
Migration Amendment (Temporary Sponsored Visas) Bill 2013 ........ 3747
Tourism .................................................................................... 3749
QUESTIONS WITHOUT NOTICE: ADDITIONAL ANSWERS—
National Broadband Network ....................................................... 3750
Indigenous Employment ................................................................. 3751
Homelessness ........................................................................ 3752
ANSWERS TO QUESTIONS ON NOTICE—
Question No. 2992 ...................................................................... 3752
QUESTIONS WITHOUT NOTICE: TAKE NOTE OF ANSWERS—
Superannuation ........................................................................ 3753
Australian Education Bill 2013 ...................................................... 3753
Migration Amendment (Temporary Sponsored Visas) Bill 2013 ........ 3753
Tasmanian Wilderness World Heritage Area .................................... 3759
PERSONAL EXPLANATIONS— ...................................................... 3760
Hodgman, Hon. William Michael, AM, QC ..................................... 3760
PETITIONS—
Doctor Shortages in Colac ............................................................... 3774
Support for the Retention of Existing Australian National Flag ........ 3774
Torquay Postal Service ................................................................. 3774
NOTICES—
Presentation ............................................................................. 3774
BUSINESS—
Rearrangement ........................................................................ 3777
COMMITTEES—
Finance and Public Administration Legislation Committee—
Meeting ................................................................................ 3778
NOTICES—
Postponement ......................................................................... 3778
CONTENTS—continued

MOTIONS—
   Food Security .......................................................... 3778

DOCUMENTS—
   Pollution Reduction Program—
      Order for the Production of Documents .......................... 3779

MOTIONS—
   Dialysis Services .......................................................... 3780

COMMITTEES—
   Privileges Committee—
      Appointment .......................................................... 3780

NOTICES—
   Withdrawal .................................................................. 3780

MINISTERIAL STATEMENTS—
   Defence ........................................................................ 3780

AUDITOR-GENERAL’S REPORTS—
   Report No. 51 of 2012-13 ................................................ 3781

BILLS—
   Constitution Alteration (Local Government) 2013—
      Explanatory Memorandum ............................................. 3781

COMMITTEES—
   Community Affairs Legislation Committee—
      Additional Information ................................................ 3781
   Legal and Constitutional Affairs Legislation Committee—
   Education, Employment and Workplace Relations Legislation Committee—
      Report ........................................................................ 3781
   Foreign Affairs, Defence and Trade Joint Committee—
      Report ........................................................................ 3781
   Privileges Committee—
      Report ........................................................................ 3782
   Privileges Committee—
      Report ........................................................................ 3782
   Cyber-Safety Committee—
      Report ........................................................................ 3782
   Foreign Affairs, Defence and Trade Joint Committee—
      Report ........................................................................ 3784
   Intelligence and Security Committee—
      Report ........................................................................ 3787
   Privileges Committee—
      Report ........................................................................ 3793
   Gambling Reform Committee—
      Report ........................................................................ 3794
   Rural and Regional Affairs and Transport References Committee—
      Report ........................................................................ 3794

DELEGATION REPORTS—
   Parliamentary Delegation to Papua New Guinea .................. 3795

DOCUMENTS—
   Tabling ........................................................................... 3798
CONTENTS—continued

BILLs—
  Tax Laws Amendment (Fairer Taxation of Excess Concessional Contributions) Bill 2013—
  Superannuation (Excess Concessional Contributions Charge) Bill 2013—
       First Reading................................................................. 3798
       Second Reading........................................................... 3798
  Tax Laws Amendment (2013 Measures No. 3) Bill 2013—
       First Reading................................................................. 3799
       Second Reading.................................................................. 3800
  Public Interest Disclosure Bill 2013—
  Public Interest Disclosure (Consequential Amendments) Bill 2013—
       First Reading................................................................. 3800
       Second Reading.................................................................. 3801
  Superannuation Laws Amendment (MySuper Capital Gains Tax Relief and Other Measures) Bill 2013—
       First Reading................................................................. 3804
       Second Reading............................................................... 3805
  Australian Citizenship Amendment (Special Residence Requirements) Bill 2013—
  Asbestos Safety and Eradication Agency Bill 2013—
  Corporations and Financial Sector Legislation Amendment Bill 2013—
  Environment Protection and Biodiversity Conservation Amendment Bill 2013—
  Assent.................................................................................. 3806
COMMITTEES—
  Finance and Public Administration Legislation Committee—
  Legal and Constitutional Affairs Legislation Committee—
  Economics Legislation Committee—
       Report............................................................................ 3806
  Broadcasting Legislation Committee—
       Report............................................................................ 3806
BILLs—
  Constitution Alteration (Local Government) 2013—
       Second Reading............................................................... 3810
       Third Reading.................................................................. 3818
  Sex Discrimination Amendment (Sexual Orientation, Gender Identity and Intersex Status) Bill 2013—
       Second Reading............................................................... 3818
       Third Reading.................................................................. 3827
  Australian Sports Anti-Doping Authority Amendment Bill 2013—
       Second Reading............................................................... 3827
       Third Reading.................................................................. 3835
  Superannuation Legislation Amendment (Service Providers and Other Governance Measures) Bill 2013—
  Superannuation Laws Amendment (MySuper Capital Gains Tax Relief and Other Measures) Bill 2013—
  Tax and Superannuation Laws Amendment (Increased Concessional Contributions Cap and Other Measures) Bill 2013—
CONTENTS—continued

Superannuation (Sustaining the Superannuation Contribution Concession) Imposition
   Bill 2013—
   Second Reading........................................................................................................... 3835
   Third Reading........................................................................................................... 3850
ADJOURNMENT—
   Regional Australia...................................................................................................... 3850
   Indigenous Business Australia.................................................................................... 3852
   Indigenous Land Corporation...................................................................................... 3852
   Supermarkets............................................................................................................ 3855
   Climate Change......................................................................................................... 3857
DOCUMENTS—
   Tabling..................................................................................................................... 3858
The PRESIDENT (Senator the Hon. John Hogg) took the chair at 10:00, read prayers and made an acknowledgement of country.

STATEMENT BY THE PRESIDENT

ParlView

The PRESIDENT (10:01): I inform the Senate that the Department of Parliamentary Services has today released its innovative broadcast service—ParlView—onto the APH website. ParlView enables users to watch, pause, search and download parliamentary proceedings, events and historical material.

Progressively, ParlView will provide access to more than 55,000 hours of archival parliamentary audiovisual records dating from 1991. Much of this footage has never been seen by the general public.

Near live webcasts of parliamentary proceedings are still available on the APH website. However, unlike ParlView, these webcasts are not searchable or downloadable.

DPS is working towards providing access to ParlView on mobile devices.

BILLS

Constitution Alteration (Local Government) 2013

Second Reading

Debate resumed on the motion:

That this bill be now read a second time.

Senator BACK (Western Australia—Deputy Opposition Whip in the Senate) (10:02): I remind the Senate that this proposal, the Constitution Alteration (Local Government) 2013 Bill, is to change the words of section 96 so that the parliament may grant financial assistance to any state, or any local government body formed by the law of a state, on such terms and conditions as the parliament sees fit. I urge all those who are vacillating on this issue to consider the words 'on such terms and conditions as the parliament sees fit'.

The Local Government Association, particularly the Western Australian Local Government Association, claim that this change will lead to minimal expansion of Commonwealth powers. I ask them to reflect on the fact that, under the Constitution at the moment, the Commonwealth government has no influence at all. Secondly, there is the issue of interference in the relationship between state and local government. I will address that as well.

First I will reflect briefly on some historical issues. I go back as far as 1897, when the then future first Prime Minister, Edmund Barton, was concerned about the federal structure created by the Constitution and the trend towards centralism. How right he proved to be. He recognised these dangers before our Federation came into place. These were his words at that time:

The revenue and the financial position of the various colonies would be so impaired and hampered that they would become municipalities instead of self-governing communities.

That situation has not changed.

I move forward to 1974. The then leader of the coalition, Mr Snedden, in campaigning against the Whitlam led referendum amendment, said:

Once that centralism is achieved, we will find that the grant of money will have a whole series of conditions attached to it which will deprive local government of its own freedom of action, and some bureaucrat in Canberra will decide the way in which local government ought to conduct its affairs.

How right he was then and how right he would be if he were alive and watching this
debate today. As we know, then Prime Minister Whitlam was keen to do two things. One was to destroy the states and the other was to centralise power and ultimately remove local governments in favour of regions. Indeed, that point was affirmed by Senator Rhiannon only the other day in her contribution to this debate. I remind everyone that in 1974 the yes vote was merely 46.85 per cent, with only one state, and that was New South Wales, voting yes. We then go forward to 1988, when the yes vote dropped to 33.6 per cent, with no states at all favouring the referendum regarding local government. I dare say that will not change in 2013.

I go now to the question of state and local government relationships. People say to me that the relationship between states and local governments is broken. I say that you never, ever so solve the issue of a disagreement with your wife by appealing to your mother-in-law. Those in Western Australia need just reflect on three areas: firstly, the dispute between the Barnett government and the federal government over GST allocation; secondly, the way in which Mr Barnett was able to stand up, alone amongst the state premiers, to then Prime Minister Rudd over the issue of health; and, thirdly, at this very moment the relationship between not only Mr Barnett now but other state premiers and territory leaders with Ms Gillard over education.

I ask local government to reflect on the question: what does a state have? A Premier has a crown law department, an Attorney-General, a Treasury and, in the case of WA particularly, royalties income. It takes that to withstand a federal government if it decides to exercise its powers. What possible hope would the Joondalup city council, the Nedlands city council, the Plantagenet council or the Mukinbudin council have against a federal government that wished to impose its will? I go to an article on the weekend about a letter from the Prime Minister to the Northern Territory. The headline was: 'PM to NT: reverse cuts and sign school plan or lose out'. That is the sort of power that the federal government exercises. As I made the point the other day, nothing in this section 96, as amended, guarantees one cent of funding for local government—not one cent. People need to understand that.

I now wish to go to commentary on the High Court. Barton himself made an observation about centralism. In the last few years, unfortunately for those of us from the states with smaller populations, we have seen an alarming trend of the High Court judges moving towards a centralist view. Only the other day, the recently retired Justice Heydon made the comment 'Stronger judicial personalities tend to push the weaker into decision.' Politics and personalities on the High Court are as abundant as they are here in the parliament, and, if local government thinks that the High Court will save it from an assault by federal government in the event this is passed, it can think again.

I go to the Nagle case in the High Court in 1992-93, in relation to an agency of which I was the chief executive officer, a case that we won in the Supreme Court in Western Australia and in the appeals court but that was overturned in the High Court. It went to a situation in which local governments were very severely bruised, as was my own agency. I will never forget Sir Francis Burt, the then Governor, having been the Chief Justice of the Supreme Court of Western Australia, saying to me at Rottnest Island—Nagle related to Rottnest: 'Chris, it's not going to help you very much, but this will go down in history as the worst decision the High Court will ever make.' Indeed it was, and it had a profound effect on local government. So, if local government think
that the High Court will be their saviour, they need to think again on that particular circumstance. I reflect on that comment of Justice Heydon's: 'Stronger judicial personalities tend to push the weaker into decision.' If that decision is not in favour of local government, then they have no further grounds for appeal.

I go to funding for this referendum. Once again the Labor government is proposing to break new ground, by not equally funding both sides of the argument. That is a first in constitutional history and it is regrettable—it is wrong and it is duplicitous. In 1999 Mr Howard, whilst an arch monarchist, guaranteed equal funding to the yes and no cases in the republican debate. What was the basis on which Mr Albanese in the other place the other day announced the inequitable funding of some $20 million versus half a million dollars? It was on the apparent basis of how the votes went in the House. The fact that they were not debating the yes and no case seemed to be irrelevant to Mr Albanese, but what is even more shocking is that he completely and utterly overlooked section 128 of the Constitution, which clearly relates to both houses. Mr Albanese seems to forget there is the Senate—as have Labor and other senators. They have come in behind Mr Albanese on the issue of the number of votes.

As I recall it, we have not even voted on this matter in this place, and for Mr Albanese to turn around and say they will inequitably fund on that basis pressures the Senate. Being in the states house, I am at a loss to understand how it is possible that senators on the other side, and the Greens political party, could agree with Mr Albanese. I trust it will become the dominant issue—the issue will not be local government; the issue will be the decision of the Labor Party not to equally fund each case. Local government is already coming under criticism simply because they have allocated funds. I read an article the other day which told of a woman in Victoria who was complaining that a childminding centre had to close in her local government area and the equivalent sum of money was being put into the yes campaign. Local government will pay for the fact that they are using ratepayers' money so badly.

I turn to the Grants Commission. We know we have six states and we have two territories, and look at the funding disputes and the funding debates that go on between the Commonwealth and the states and territories. Can anybody imagine not eight jurisdictions but 560 local governments debating funding? How are allocations of funds all going to match up, in a circumstance, I repeat, in which any modification of section 96, which would include local government funding, includes no guarantee at all of road funding? People talk about section 96 and the allocation of funds for roads. It goes back 90 years, to 1923, when the Commonwealth first started allocating funds for roads. They can go on doing it—as I indicated in my contribution at the beginning of the speech on Wednesday, there is no good reason why that would stop.

In summary, it has long been my experience in rural Australia—rural Western Australia and Tasmania particularly—that decisions for local communities are best made closest to the community which requires the service and is most impacted by it. That does not come with decisions by a bureaucrat in Canberra; it comes about as a result of decisions at the local government level. If there is a problem between a state and a local government, sort it out locally. Every state deals in its constitution with local government. The recommendation of the Select Committee on Federation, on which I proudly sat, made this recommendation:

Pending the outcome of this inquiry, the committee recommends that mechanisms other
than constitutional amendment, perhaps by way of agreement … be explored to place Commonwealth funding …

Finally, the Spiegelman committee did not recommend that this constitutional alteration proceed at this time.

Senator FAWCETT (South Australia) (10:13): I start by highlighting the importance of local government and talking about the framing of this debate on the constitutional recognition of local government and how it has been represented in many quarters. I would then like to talk about the premise of the question at hand, and how it is about the uncertainty which is driven by risk, and I will look in a little more detail at how we assess and treat risk—the probability of the occurrence and the consequence if that risk does eventuate. I will look at the process and ask if the premise is valid, does that justify a lack of due diligence with respect to value for money for the taxpayer and the ratepayer as well as equity for the Australian people.

Lastly, I will look at principle: does the argument have sufficient validity that it should lead us to override due diligence around the important process of reforming Australia’s Constitution, the Constitution that has been the bedrock of the stability of the governance in this nation since Federation? I would argue that, although not a perfect document, it has been the bedrock of a democracy which is the envy of many nations around the world. My predecessor in my former life as the member for Wakefield, Mr Neil Andrew, made the comment that our democracy is not perfect and that, while sometimes it appears as though we have two steps forward and one step backward, generally speaking we shuffle in the right direction, compared to some nations which act with great haste and end up falling off, quite often, a fiscal or social cliff.

Firstly, I would like to address this point of how the argument has been framed, almost as though it is a case of those who support the referendum being for local government and those who do not support the referendum being against local government. That premise is clearly false. That framing is inaccurate. Any member of parliament or any senator who is in touch with the local community is undoubtedly for local government. I would like to use this address to place on record my appreciation for the advocacy of the Local Government Association of South Australia and South Australian councils, not only in this issue but in many issues, about their impact on the communities that we represent in this place. I constantly receive letters and phone calls from and have meetings with councils, council members and the Local Government Association over issues that impact on communities in South Australia, looking at ways to work together across all three levels of government where possible, or, if needs be, just between the federal government and local government, in the interests of the community. As has been well canvassed in this debate, local government now do not just do roads, drains and rubbish, but they have a broad remit where they add value to our community.

Certainly, as a member of the joint select committee looking into this constitutional recognition of local government, I have had the opportunity to interact with local government from across the whole of Australia as opposed to just South Australia. I can say with confidence that what I know to be the fact in South Australia appears to be well replicated throughout the nation. In particular, I would like to mention Felicity-ann Lewis, the Mayor of Marion, and her leadership role in the Australian Local Government Association and thank her for...
her very effective leadership and advocacy on this and a number of other issues.

I would like also to mention, when it comes to a strategic view of local government, the efforts of the Wakefield Group. When I was the member for Wakefield, the council areas within that electorate—Salisbury, Playford, the Town of Gawler, the Light Regional Council, the District Council of Mallala, the Clare and Gilbert Valleys Council and the Wakefield Regional Council—decided to meet together on a regional basis so that, rather than putting in individual submissions for a small part of South Australia that they represented, we could take the time to work collaboratively as a group of local government bodies and as the federal government to look at regional priorities, to come up with transport plans, employment plans and other things that worked for the whole region and then to put in submissions for grants which represented a regional strategic investment as opposed to one local government body.

This had a couple of benefits. It meant that the Commonwealth government, when assessing that grant, recognised that this was indeed a strategic investment as opposed to just a local priority. It also meant that, because at the planning stage there was that collaboration and cooperation between councils, when that federal funding arrived the councils could add value to that in how they implemented the funding and work. They could sequence roadworks. They could add their own funding to it so that the taxpayer and ratepayer actually got far more value for the dollars spent. Currently, there are things like the Suburban Jobs Program in Playford, where some $11.3 million has been received. People still talk about and still benefit from one of the Howard government programs, of waterproofing northern Adelaide, where the councils of Salisbury—taking the lead in terms of the actual technology—and Playford and Tea Tree Gully came on board to significantly develop and enhance world-leading stormwater capture and re-use, using the aquifer system in South Australia.

Local government is important. It takes leadership in a number of areas, covering housing, employment and community facilities. I recognise that the Local Government Association of South Australia even did a report looking at the viability of regional airports, an issue which is important and often overlooked, given the importance of those facilities. So there is no doubt that local government is important and that federal funding for local government programs is likewise important. During the joint select committee inquiry, the Wagga council talked about the $15 million upgrade they had made to their airport and the $2.4 million that the federal government put into it. For the Roads to Recovery program—and I have seen clearly, during my time in Wakefield and before, the importance of that program—the total funding between 2009 and 2014 is $1.75 billion, a considerable amount of money.

These are all good outcomes for local government, and I highlight that they are particularly good for local government areas with smaller populations that have large land masses: they have a small rate base but very large infrastructure responsibilities, and so federal funding is quite important for them. So it is understandable, coming to the premise of the argument, that these councils are concerned that the combined effect of the decisions in the Pape and Williams cases has cast doubt on the validity of many programs funded by the Commonwealth government, included those that directly fund local government.
People are aware that the parliament responded to the decision in the Williams case by passing the Financial Framework Legislation Amendment Act (No. 3) 2012, which has provided what many would call a stopgap measure to make sure that funding can continue. But the concern that people have is: what if that were challenged; would this funding be at risk? The questions that have to be asked are: how likely is that challenge, is it necessarily the case that a challenge would also involve the government's ability to directly fund councils, is there another way to provide that funding and, lastly, how much is that funding in the first place?

Drawing on the extensive evidence that Dr Anne Twomey, a professor of constitutional law at the University of Sydney, provided to the joint select committee, it is obvious that in aggregate—and I recognise that this depends on which council you are talking about—local government in Australia is relatively financially autonomous. Commonwealth funding makes up about eight per cent of local government operating revenue, in contrast to the states, which receive about 50 per cent of their revenue from the Commonwealth. As Dr Twomey stated in her submission:

PriceWaterhouseCoopers noted in a 2006 study that dependence of individual councils on grants varies from less than 2% to more than 70% of revenue.

That is why to some councils, particularly the small regional councils that have a large land mass with a small rate base, those grants are very important. Dr Twomey also noted:

The Productivity Commission … found in 2008 that 10 percent of councils were highly dependent on grants, with grants amounting to more than 58% of their total revenue, but that these councils represented about 0.4% of the total resident population of all councils.

To get things in perspective, what we are dealing with here is approximately 1.8 per cent of local government revenue. It is still a significant amount of money for some councils, and it is very important to those councils who need it for the construction or repair of infrastructure. But, as a balance of the total revenue, it is sometimes misrepresented in the debate, which tends to lend to the urgency and the catastrophic assumption about what would happen if there were another challenge to this funding.

By contrast, in 2011-12, the Commonwealth provided $2,722,866,000 to local government through grants to the states under section 96 of the Constitution. This amount was divided up between the states according to the population of each state. It was then distributed within each state on an equalisation basis, as determined by the relevant state local government grants commission, subject to the first 30 per cent being distributed to each local government area by reference to population. In the same period, $624 million—only about 23 per cent of Commonwealth funding to local government—was paid directly through programs such as Roads to Recovery. These grants, while coming directly from the Commonwealth, still relied on assessments made by the relevant state local government grants commissions.

Whilst, in the view of constitutional experts, this funding is vulnerable to a challenge, would that be a catastrophic problem? The answer is clearly no—because that money could still be validly given under section 96 grants, as has been happening since 1923. There is a perception out there that this direct funding is new money—that, if it were not given directly, it would not be available. But the Parliamentary Research Service has found that, while financial assistance grants for local government have gone down as a proportion of GDP since
Monday, 24 June 2013

1996, direct grants have gone up. The result is that Commonwealth funding of local government, as a proportion of GDP, is about the same as in the late 1990s.

The other aspect of certainty to note is that the Commonwealth makes grants to local government in accordance with its capacity. In the current economic conditions, for example, if the government feels it does not have the capacity to make grants, it will change the amount. It will open or close programs. So local government funding, regardless of whether it is direct or through section 96, is only as certain as the will and capacity of the federal government to make those payments. That uncertainty is probably greater than any uncertainty arising out of a potential constitutional challenge.

That raises some questions. Given that there are alternative methods of payment and given that the state governments still have a say—and, despite rumours to the contrary, it has been proven, including through audits, that state governments do not reduce the amounts going to local government by skimming an administrative cost off the top—can we justify such an assault, as is now becoming apparent, on equity? And can we afford to set a precedent in the process of constitutional reform given that we cannot even guarantee that it is going to deliver the intended outcome of increased certainty?

I move now to the issue of process. When the government spends taxpayers’ money to establish an expert panel to look deeply into an issue, to engage with stakeholders and to provide advice, there is a reasonable expectation that their advice will be heeded and followed in what the government subsequently does. The expert panel made it quite clear that, for a referendum for the recognition of local government to succeed, a number of preconditions would have to be met. These preconditions have not been met, either with respect to the uniform concurrence of states—some states, at least, will just play dead on the issue—or with respect to the time frame for the referendum.

The testimony from the Australian Local Government Association to the select committee was that they viewed the preconditions as being absolutely essential. In the early stages of the inquiry, at least, they expressed doubt that they could be met. In January, in fact, they expressed their strong concern that they could not be. For reasons best known to them, they have changed their position. But the fact is that the preconditions the expert panel set down have not been met, yet the government is pressing ahead.

You therefore have to ask whether the funding allocated to run the machinery of the referendum and to fund the yes and no cases is now at risk. Whether or not you support the constitutional recognition of local government, if the chances of the referendum succeeding are low—according to the evidence of the expert panel—then this money, at a time of tight financial constraint, is potentially being wasted.

Finally, to principle: Greg Craven, the Vice-Chancellor of the Australian Catholic University and a constitutional lawyer, said that the lopsided funding for the 'yes' and 'no' campaigns is unconstitutional and 'would fail the smell test' with the High Court. The decision by this government to deviate from the principles of past referendums—such as the 1999 republican debate—where funding was equal, regardless of the preferences of the Prime Minister or the government of the day for the outcome, is a dangerous precedent. It essentially means that a government can choose, in future, to use its numbers to push through legislation that will seek to buy the outcome that it wants, as opposed to giving the Australian people a
fair and equitable information campaign to inform them equally about the effectiveness or veracity of both the 'yes' and the 'no' case. This is a dreadful precedent to set.

It also ignores the role of the Senate, which is directly in contravention of section 128 of the Constitution. The Senate is not only an integral part of the whole parliament but also a protector of states' rights and the provision of checks and balances. To just cut the Senate out in the decision, like this government has, is not only ignoring the Constitution but also taking away from the due diligence that is built into the Constitution as a check and balance in the interests of the people of Australia.

The 'no' case convenor, Mr Julian Leeser, highlights that so far some $31.6 million of public funding has been allocated to the 'yes' case, including $10 million of ratepayers' funding through the Local Government Association, $10 million from the federal government through the 'yes' campaign and $11.6 million from the federal government to run a national civics education campaign to promote the 'yes' case. Only $500,000 is for the 'no' case. That inequity is just not right. It is unfair and, I would say, unconstitutional. It offends the Australian precedent and sense of the right thing to do.

I note also the misleading remarks from the Greens party, who quoted the ALGA as saying that the funding should be according to vote, and therefore the government has just followed the report and evidence given to it. But they have ignored the fact that the committee highlighted in that report the committee's preference for the funding to be equal for the campaign. So I am disappointed by that misleading remark, which did not take the full context.

So, because there are valid alternative funding pathways to address the funding uncertainty that was introduced by the recent High Court cases, that reduces the imperative to pursue constitutional change in the face of things such as the fact that the preconditions for success have not been met. To conclude, I just wish to recap the fact that all members and senators who are in touch with communities support local government because of the very important job that they do. The direct funding that they receive is important, and it is being used well. But it is not the majority of funding to local government. It is not certain, and it depends on the capacity and the will of the government to deliver it. It does not equate to new funding. It can be delivered, as it has been since 1923, by section 96 of the Constitution, without dilution by the state. Finally, it is only at risk if somebody challenges it and the courts decide to apply that beyond the scope. So the referendum is not guaranteed to succeed. It potentially will waste taxpayers' money. I cannot support the bill, with the government's current amendment on the funding, as it stands. I support the coalition's amendment.

Senator BOYCE (Queensland) (10:34): I think my view on the Constitution Alteration (Local Government) 2013 bill was perhaps brought into stark reality a number of years ago when the shire engineer for what was then the Dalby shire and the shire engineer for the Wambo Shire Council—two councils which have now been merged—said: 'The Howard government's Roads to Recovery program is the best thing a federal government has ever done for us. If you give the money to George Street—meaning to the state government—they spend half of it on meetings, analysis and commissions for their input. If you give the money straight to us 95 per cent of it goes on to our roads.' Roads to Recovery highlighted the efficiency and the need for some avenue of direct funding outside the grants program to local government. It is a damning indictment and a
damning example of this government's ability to snatch defeat out of the jaws of victory that we now have so much opposition to this referendum at this time, as well as just a general opposition to the referendum.

I suppose the genesis of this bill and this particular referendum go back to about 2006, when both houses of parliament passed a motion recognising the place and value that local government has in Australian society. The motion said:

That the House/Senate:
(a) recognises that local government is part of the governance of Australia, serving communities through locally-elected councils;
(b) values the rich diversity of councils around Australia, reflecting the varied communities they serve;
(c) acknowledges the role of local government in governance, advocacy, the provision of infrastructure, service delivery, planning, community development and regulation;
(d) acknowledges the importance of cooperating and consulting with local government on the priorities of their local communities;
(e) acknowledges the significant Australian Government funding that is provided to local government to spend on locally determined priorities, such as roads and other local government services; and
(f) commends local government elected officials who give their time to serve their communities.

That I think was the beginning of this genesis of the referendum bill and it is certainly the third genesis that the bill has had.

The coalition continues to hold the view of supporting a minimalist approach to putting local government into the constitution, but it is only the process that this government is capable of. It now has got us to the situation where almost everyone outside the Local Government Association has deep concerns about the way this bill is proposed and the way this referendum is going. An expert panel under Mr Justice Spigelman was set up in August 2011 and it looked at four types of recognition: symbolic recognition, democratic recognition, financial recognition and recognition through federal cooperation. The government dropped symbolic recognition and recognition through federal cooperation via a preamble. It then looked at the others, did some polling, took a lot of evidence right round the country and acknowledged the general historical reluctance of Australians to change the constitution.

There have only been eight out of 44 referenda that have succeeded in Australia. We need to keep in mind that in many cases those referenda were supported by both major parties and by the majority of states—that is, the yes case was supported by a majority of states and by the major parties—and still they failed. It is incredible that this could happen. There are a number of conditions that I would have thought this government was well and truly aware needed to be undertaken before getting to the situation of putting a referendum forward.

The expert panel sought two extra conditions for the referendum's success. The first was that the Commonwealth negotiate with the states to achieve their support for the financial recognition option. The second was that the Commonwealth adopt steps suggested by the ALGA necessary to achieve informed, positive public engagement on the issue. Neither of these outcomes has been achieved by this government. A number of state governments are energetically opposed to this referendum. I think that is a short-sighted view to take; nevertheless, there is not even support for it coming from the majority of states. Whilst funding has gone to the ALGA to establish informed and positive public engagement on the issue, it is certainly not resonating out on the streets. This might be partly because of the other
diabolical political stories that are dominating the media—certainly, this issue has not come out there.

When you look at the way that the government has gone about the recognition of Indigenous people in the Constitution—starting now on a referendum to occur in at least a year's time, with publicity and with major and important functions to highlight the development of the campaign for a yes vote on the recognition of Indigenous people in our Constitution—it is completely different from the way that the government has gone about this referendum. Many people were surprised when the Prime Minister said, almost as an afterthought, when she announced the longest election campaign in history: 'Oh, and by the way, we're going to have a referendum on local government as well.' It was a surprise to so many people. It was announced long before the wording for it became available. The wording for it was not even known then.

It is interesting to look at the comments made by so many groups. Queensland, I would suggest, has the strongest, most mature and best developed local government system in Australia. It certainly appears that way to me. Having lived in three states at various times, it appears to me that the local government councils in Queensland are taken more seriously and are more professionally run. I do not want to criticise the abilities or capacities of people in the councils of other states when I say that Queensland councils are 'more professionally run'. I simply think that they take on a larger task. They tend to be run more by full-time people than do some of the councils that I have seen in other states. Naturally, Queensland is strongly committed to supporting the referendum and to supporting the recognition of local government within our Constitution, but this federal Labor government has somehow managed to even muck up this.

Queensland, my home state, was the only state to come out in support of the referendum before the bill for it was introduced—in other words, before they had the wording for it. It was in early 2013 that Queensland Premier Campbell Newman wrote to all the other states, urging them to support the referendum. He wrote to the Prime Minister, supporting the changes that were being proposed—but they were only the changes that were being proposed. He also supported holding the referendum during the election or on a fixed date in 2014. It would be my contention that that might be a far better way to go about it. At the time, Premier Newman said:

It is the Queensland Government's view that constitutional recognition that does not diminish the State's primary constitutional responsibility for local government is appropriate given the breadth of interaction over recent decades between the Commonwealth and councils, and the legal uncertainty about funding that has arisen from the decisions of the High Court in the Pape and Williams cases in recent years.

By 5 June 2013 the Queensland government had taken some legal advice and had begun to have concerns about the insertion that would go into the Constitution. They even proposed changing the wording of the bill because of their concerns. That would seem to suggest that Prime Minister Gillard had not quite managed to fulfil the condition set by the Spigelman report that the federal government should have the support of the state governments before they went ahead. So she could not get it right, even for the strongest proponent, Queensland, with a Premier who was previously the lord mayor of the largest council in Australia. Premier Newman, in a letter sent on 5 June 2013, said:
The Queensland government has consistently supported constitutional recognition of local government on the basis that any amendment allowed the commonwealth government to directly fund local government without diminishing the role of the state government. We have taken advice in relation to the matter. In our opinion, having considered the matter further, the amendment in its current form does not achieve this result. Accordingly, our support for the proposed amendment is subject to the inclusion of additional wording in the bill.

They propose that the wording should be:

During a period of ten years after the establishment of the Commonwealth and thereafter until the Parliament otherwise provides, the Parliament may grant financial assistance to any State, or to any local government body formed by a law of a State, on such terms and conditions as the Parliament thinks fit. That is what the bill currently proposes.

Queensland would then add:

The terms and conditions of a grant of financial assistance to a state or to a local government body formed by a law of a state are subject to the laws of the state.

It is quite clear that the Queensland government is trying to ensure that the problems that are raised by some of the doomsayers, some of the critics, some of the opponents of this referendum, are put forward, which include that this will just be a backdoor way for the federal government to ignore state governments and pour money into local councils, to use this for pork barrelling to buy the support of local councils. That is what the amendment proposed by Queensland would overcome.

The bill has been through the House of Representatives and is now before us, and we have a situation where once again this government gets lost in the detail; it cannot do the process properly. It is interesting that Queensland local government minister David Crisafulli, himself a former deputy mayor on the Townsville council, said:

We don't want to be spoilers but we can't accept the language that's been put forward. We want to find a way to make this a yes vote but that can only be done if the commonwealth spells out that it only wants to fund local government, not control it. This process should be about strengthening the role of local councils, not binding them to the whims of the federal government by stealth.

That suggests a less than wholehearted support for this referendum from the state supporting it most strongly, Queensland. South Australia and Western Australia have supported it, New South Wales said, 'We're not sure' and Victoria said it was opposed to the terms of the referendum. So in the current situation we do not have anything like agreement from the states on undertaking this referendum.

On the topic of the referendum being publicly supported, with an educated public looking at this question, I did something of a straw poll while talking to constituents at the weekend at a number of campaign functions that were being conduct. The vast majority of people on the street said to me, 'What referendum?' That was their answer: 'What referendum?' They did not know it was happening—and, as we have proved a thousand times over, irrespective of the support of the parties, state governments and the like, if people do not understand the issue, they will not support it at a referendum. Australians have proved that so many times.

In terms of support for this move, I would like to commend the Local Government Association of Queensland, under Councillor Paul Bell, who was the state president, and has been the national president and one of the drivers of this. Councillor Bell is a member of the Emerald Shire Council. As President of the Local Government Association of Queensland, and of Australia, he has done an excellent job in pushing this
matter forward. But I would suggest that some of the other state local government organisations may not have worked as hard as they could have on this move. It seems to me that there is, in some states, even a lack of understanding of how to go about advocacy. I was surprised that there was the sense that somehow the duty of the major parties, or the government, to convince people to vote for this. In fact, the local councillors are the people who are closest to the constituents—they are the people who could have driven this, so that everyone in Australia knew what we were talking about and knew the issues, had they put energy into it at a grass-roots level. That did not happen.

I must also admit, talking about how the public become aware of this, that I was gobsmacked and amazed by the funding proposals that the Labor government put through, as was our leader Mr Tony Abbott. He was so shocked by this that he wrote to the Prime Minister saying that the fact that this government chose to give $10 million to the 'yes' case and half a million dollars to the 'no' case just beggars belief. It is undemocratic; it is unfair. Even though I support the 'yes' case strongly, I also believe that it is beyond embarrassing, beyond any knowledge of corporate governance or any other vestige of honesty, that a government would propose that the funding be based on the number of votes. At the last referendum the money was fifty-fifty—and that is the only way that the Australian public are going to buy a referendum. They only have to hear that the 'no' case got a twentieth of what the 'yes' case got and you have already lost the referendum, irrespective of the topic—because fairness is the first thing that an Australian voter will be looking for. I very much share the view of Mr Tony Abbott when he said it is very disappointing that public funding has been allocated so disproportionately. It is the first time that any

target funding based on parliamentary votes has ever been raised with the coalition or the public. So, once again, we have poor process leading to defeat and mess. (Time expired)

Senator McKenzie (Victoria) (10:54): I rise today to speak on the Constitution Alteration (Local Government) Bill 2013—the referendum to recognise local government. I oppose this referendum for the same reasons the Australian people twice voted against the question it seeks to put to the public. We are a sceptical people. We are sceptical of power concentration. And this bill is nothing short of a power grab by Canberra. It is a blatant attempt to take power from the states, it is a crude answer to a difficult problem—it is a vote-buying exercise.

From the outset, though, it is important to note that I do not dispute the fact that there are significant challenges confronting local government, particularly regarding funding and the integral role that local government plays in our nation's governments. As the Joint Select Committee on Constitutional Recognition of Local Government's final report on the expert panel's majority finding noted, when the Constitution was drafted, there was no consideration that the federal government would need to fund local governments. Now, though, the federal government funds councils directly in many areas, as it does in the areas of health, education and other aspects of our national conversation that are explicitly the area of states constitutionally.

There have been High Court challenges which have seen that funding come under some question mark, and local government has been concerned that this funding is not secure going forward. Constitutional experts told the committee that there were serious doubts about the direct funding of local
government surviving a constitutional challenge, but we have heard numerous constitutional experts throughout this debate, both in the Senate and within our own states, with counteradvice. This uncertainty is plaguing the decision making of local councils across Australia, and it is hampering their ability to effectively plan for positive sustainable futures for their local constituents.

Councils are at the coalface of our democracy. They have an intimate knowledge of their communities and are dedicated to serving their ratepayers. I know firsthand that there is a strong desire of local councillors to engage with and serve their communities, as I met with the majority of local councils in regional Victoria on coming to this place. Every single one I asked, 'Do you support constitutional recognition of local government?' and they all answered yes, with varying degrees of strength, to that question. But I also followed that question up with: 'Why do you support that?' They said, 'Because our budgets are struggling,' and this was particularly the case in rural areas, as they have increasing needs and a shrinking ratepayer base. Many rural councils have infrastructure deficits and an insufficient rate base to keep up with the costs, and there is a lot of debate about that in Victoria at the moment.

This proposed referendum, this debate, is not about supporting councils or not supporting local councils. Indeed, it is out of concern for the needs of local government that I am opposing this bill. I do not want them to become the servant of two political masters, and I do not want them to be dictated to by Canberra. While the committee was right in identifying a funding problem, the solution before us today is far from the right one.

My opposition to this bill is based on first principles, when we strip away the layers of secondary arguments and get back to the basics. Conservative philosophy does not advocate weak government but prefers government which is both strong enough to cope with internal and external order and still constitutionally restricted and balanced, a government that is able to function properly to represent and serve its constituents but that does not wield excessive power or control. Our federal government is not in any danger of having not enough power to cope with internal or external order, and therefore the power it does not need must remain with the people or, as in this case, with other levels of government.

Eighteenth century Irish statesman and political theorist Edmund Burke was concerned about the concentration of power in one place and argued that power should be distributed throughout society. To do its job properly, Burke said, the government needed to be strong, but its strength should not be concentrated in one person or—importantly for this debate—in one place. That is why Burke stressed the importance of 'little platoons', or secondary associations. He said that local concerns should be managed at the local level not the national and that, instead of placing all power in government, the authority of other groups should be respected and maintained. The current power-sharing agreement in Australia does precisely this. Power is shared between various levels of government to prevent its becoming concentrated and to prevent its abuse.

In the context of this bill, this concept is critical. We must regard the granting of further powers to the centralised government with suspicion. If it is not necessary, why grant further power to the federal government? Considering the surrender of further powers to the federal government with scepticism explains why referenda in
this country have a historically low success rate. We do not accept that government is always right as a natural assumption. In fact, of the 44 questions put to the people, 36 have been rejected. This is because Australian people have a healthy respect for our Constitution. They know it is a critical document that sets out where power should lie in this country. They are rightfully wary of changing it without very good reason. To change, the referendum question should be immensely important. It should pose a question that is significant, challenging and desired by the people.

In 1967 the Australian people voted to give the Commonwealth the power to make laws for Aboriginal and Torres Strait Islander people. That referendum was symbolic and nation defining. It rectified a significant injustice and set Australia on a path to righting historical wrongs. That is exactly what a referendum should be for. More than 45 years later we have started the process to recognise Aboriginal and Torres Strait Islander people in our constitution. I went to the launch in Melbourne, alongside government, Greens and coalition senators and members—a bipartisan response. In this case building widespread grassroots support to educate the public is part of the plan, and this will maximise the ultimate success of the referendum. The issue at stake is rightfully recognised as one of national importance and is treated accordingly. These examples are a far cry from this government's plan to recognise local government in the constitution before us today.

Not only has Australia traditionally rejected referenda, it has also twice vetoed referenda on the question of recognising local government. Similar questions were put to the people in 1974 and in 1988. In 1974, Australians were invited to support: An Act to alter the Constitution to enable the Commonwealth to borrow money for, and to grant financial assistance to, local government bodies. It was lost 53 per cent to 47 per cent and was rejected by five out of the six states. At the time deputy leader of the opposition, the Country Party's Doug Anthony, declared that if the people were asked to participate in a referendum, then it should be clear that the proposition sought to alter the constitution because it was both necessary and desirable to do so. In opposing the bill, he argued:

In the view of the Australian Country Party it is reasonable to suggest special arrangements to assist the financial position of local government. It is not reasonable to propose fundamental constitutional amendments as being a necessary condition to do this.

In 1988 the question was even simpler: do you want to alter the constitution to recognise local government? Yes or no.

During the debate Nationals leader Ian Sinclair said the National Party had a very real respect for local government, and it does. I think it has been evidenced throughout this debate by the shadow minister for local government, Barnaby Joyce. We understand localism, and Senator Joyce has made a passionate justification for local government's role in our democracy, and I fully support him in that. But back in 1988 Ian Sinclair also said, 'I suggest the Labor Party sees this referendum as a very good opportunity to aggregate power through some new amalgam of local governments.' It is the unintended consequences that are not clear today in the motion before us. The answer to that referendum in 1988 was even clearer: it was rejected in every state and by an overall margin of two to one. That referendum cost $34 million.

Despite the lessons of history, this government is apparently keen to try its luck at power grabbing once again. It will attempt to further control how money is spent and spread its influence into local council
meetings across the country. If it is not this government, then it will be a future government. At present Commonwealth financial assistance grants to local government, which do go through state administrations, are largely untied although a certain proportion of the funding has to be spent on roads. Each state is able to focus on variables in their own funding formula that are specific to their needs. In Victoria we have concerns that any change to that will result in less money going to Victorian councils.

If local governments were to be recognised in the constitution, Canberra would be able to fund local governments 'on such terms and conditions as the Parliament thinks fit'—that is section 96 of the Constitution. If we think of what various governments, including this one, have seen fit to do, we should all be quite concerned about giving that power to a federal government.

Poorer regional councils with a lower rate base and higher infrastructure costs could be disadvantaged, as they would no longer be in a position to refuse funding with a condition they did not like. Desperate for funding, these councils would be vulnerable to the political will of both the state and federal governments. We should be wary of the concentration of power in one place. Canberra should not be deciding how local councils spend their money. That should be left to the people who know the area best and who act in the best interests of its constituents—the local government and local councillors.

Not only does the federal government seek to unnecessarily increase its power and influence with this bill; it also seeks to unfairly influence public debate on the bill in an effort to ensure the referendum is successful. Just last week came the announcement that the government will fund the yes campaign to the tune of $10 million of taxpayers' money and only commit $500,000 to the no case. This is in addition to ratepayers' contribution of an additional $10 million. So taxpayers at the local and the federal level are committing over $20 million of their own money to fund a campaign that largely, as Senator Boyce suggested, they do not even have an opinion on. It is un-Australian. It is also unprecedented.

Since legislation was changed in 1999 to allow for funding the arguments for and against referenda questions, there has been just one referendum. In the 1999 referendum, on the question of Australia becoming a republic, both the yes and the no cases were funded equally, as they should have been. A central tenet of democracy is the concept of free and informed debate on issues of importance. If the public is not aware of the pros and cons of a given issue, they cannot make fully informed decisions. When there is such a differential in the weight of advertisement, if you like, that is going to be even more the case. As Thomas Jefferson said:

> If a nation expects to be ignorant and free, in a state of civilization, it expects what never was and never will be.

The people cannot be safe without information. Fully understanding the consequences of and reasons for and against a change to the Constitution is certainly an issue of great importance. I welcome the coalition's amendment in that regard. It seems that, for the Gillard government, some sides of an argument are more equal than others.

Voting to change the Constitution is not something that should be done lightly or without good reason. In this case, it is not something that should be done at all. This referendum is not the only possible solution.
to the problem of local government funding. Other options which the government could pursue include increasing funding to the grants commissions which administer funding to each state or entering into an agreement under section 96 of the Constitution to allow for the Commonwealth to fund local councils for specific purposes. Both of these options are available and preferable to what the government is proposing now.

Not only is this referendum unnecessary and self-serving; it is also unpopular, something of concern when you are considering going to the people for a vote. The states of New South Wales, Victoria and Western Australia have long been opposed to this move, and, if recent reports are correct, Queensland is also against this move with these particular words. These four states represent the majority of the Federation states that signed up to the Constitution and the majority of the population. In section 128 of our Constitution, detailing how the Constitution can be changed, it says that a majority of people in a majority of states is required for a referendum to pass. It would seem then that there should be, in this the states house, many more senators voting against this bill than for it.

Victoria, in particular, has very good reason for opposing this referendum. Victoria has been through extensive and not always popular reform of local government over the past two decades. The Victorian Minister for Local Government, Jeanette Powell, said last month that there was a strong possibility that Victorian councils would be financially disadvantaged by the change proposed by this referendum. Minister Powell has been a strong champion of local governments, but she is equally strong about saying that this is not the right way to solve the issues confronting local government, particularly around their funding.

The money that this referendum will cost could also be better spent. The $10 million to fund the yes campaign, the half a million dollars to fund the no campaign and the other $10 million being donated, if you like, from local councils, who can least afford it, could be spent on a myriad of services within local communities, as could the $55 million that the referendum is expected to cost. Regional councils like the Loddon Shire in western Victoria, which services a road network of 5½ thousand kilometres, or Mildura Rural City Council, which services about 5,000 kilometres of roads, could instead be the beneficiaries of this money, rather than ratepayers’ money heading off to the Australian Local Government Association. It would make more sense than funding a referendum campaign that is ill-founded and, I think importantly, destined to fail when we compare it to how this government is approaching other issues of constitutional change that they are considering, in a bipartisan manner, taking people with them on the journey to come to a consensus so that we are all on the same page. That is exactly how constitutional change should occur.

Finally, the recognition of local government is an important question for empire building bureaucrats and councillors but it is not relevant to everyday Australians. I doubt it would even be in the top 50 let alone the top 10 issues that affect Australians out there in voter land. Rather, this bill is demonstrative of a government hungry for power and more control over local councils. It is a very blunt and unsophisticated solution to a very complex problem.

I understand the bill has the required numbers to pass in this place as easily as it did in the other. We will have a third referendum on local government on 14
September. My prediction is that it will fail. When we meet here again after the election and ask what went wrong, I will be pointing senators back to the address that I and others have made over the course of this debate.

Senator WILLIAMS (New South Wales—Nationals Whip in the Senate) (11:11): I rise to speak on the Constitution Alteration (Local Government) 2013, which seeks to amend section 96 of the Australian constitution to make a specific provision which would allow the granting of financial assistance to local councils. We know that there are varying opinions in the coalition on this matter. My colleague Senator Ryan and my close colleague Senator McKenzie and I have a difference of opinion, but on our side of the chamber you are allowed to have a difference of opinion. We are a democracy and we are allowed to vote how we like, and I certainly welcome that. No doubt this will be a controversial issue when it comes to a vote. That is what fairness and democracy is about.

The real problem I have is the way in which this legislation has been rushed. I will be supporting this legislation. I support the change to the Constitution. But I am with Senator McKenzie: I do not think the referendum has any hope of passing on 14 September, when the people of Australia will have their say. To pass a referendum, first of all you need everyone in both houses of parliament, along with the state governments and local councils, onside. As the Electoral Commission says, we need at least six months.

I want to start off by quoting the General Manager of Glen Innes Severn Council in northern New South Wales, Hein Basson. This is what local government faces:

Rates only account for approximately 28 per cent of council’s revenue. Grants from other tiers of government are by far our largest source of income. The ability of local government to meet the needs of its communities will always be dependent on its ability to receive adequate funding from the federal government, through the Financial Assistance Grants, distributed by the state governments. Without it our community cannot be served by sustainable council into the future.

That pretty much sums up what many councils in rural and regional areas think
about the funding—but, of course, the FAG grants are going through the state governments.

I want to take you to the Roads to Recovery program, a very important and successful program—initiated under the Howard government, of course. The former member for New England, Stuart St Clair said in his speech:

I rise in this House today to again bring to the House's attention the importance of the Roads to Recovery program to local councils, particularly local councils in my electorate of New England. There has been quite considerable discussion of the Roads to Recovery program and the fact that it is delivering for our road networks in regional Australia a much-needed and long-overdue level of service that we have been unable to provide through local government for a long time.

It is interesting, when I see audit reports on local councils in many areas. When they add in the depreciation of their road networks, those councils are going backwards financially in a serious way. Mr St Clair went on to say:

Last week I went out with the mayor of one of my local councils, the Gowrie Shire Council, together with some of its councillors and engineers, to have a look at the work being done on many of the roads. They were pinpointed years ago as desperately needing a gravel re-sheeting program. To stand there on the side of these roads while the trucks were rolling was incredible, because you are physically seeing, for the first time, substantial works being done that will bring direct benefits to people who live in those areas.

Of course, two High Court challenges—the Williams case and the Pape case—are probably the whole reason we are talking about this legislation now. I think the federal government giving direct funding to local councils is a good idea. Look at the mess of the Building the Education Revolution, where the federal government gave the funding to the state governments to control. Go back a few years, to that disgraceful Labor government in New South Wales, who then had contractors distribute Building the Education Revolution funds. In the north and north-west of New South Wales, and on the coastal regions, they appointed a contractor called Reed Constructions. I was at the meeting when they called the meeting in Tamworth, with about 200 trades men and women, plumbers, electricians and builders. Reed Constructions said, 'Of course, there's nothing in this for us.' Well, there was nothing in it for many, because Reed Constructions went broke. One builder in Moree who carried out one of the Building the Education Revolution programs lost in excess of $600,000—I think it was $642,000—carrying out a government job, building the school buildings. It would have been good, in my opinion, if the federal government had run that program and just given it to the schools and said to the schools, 'Here's your stimulus package; you spend it how you like'—as they did with the Catholic system and some of the private schools, where they got some real benefit. But, no, it was a mess—it was rushed through, like many things this government does. You only have to look back to the Prime Minister's decision on the banning of live cattle exports to Indonesia. No-one supported what the Four Corners program showed, with the abuse of the cattle, and the coalition actually supported the government to ban the export of live cattle to those abattoirs that were not doing the right thing. Of course, the emails came in and then the decision by Prime Minister Gillard to ban the whole export industry. When you talk to the beef producers of the Top End or to those further south—cattle are now being transported further south because we have lost that export market—they tell you that 750,000 head of cattle a year were exported but now it is down to about 200,000. The
financial damage and ruin that this has caused to so many is simply unforgivable.

Here we have this referendum bill before us. I will be supporting it, but I know some—I am not too sure how many—on my side will not be supporting it. Responsibility for local governments is not mentioned anywhere in the Constitution. State constitutions have provisions to maintain a system of local government, but these provisions do not guarantee appropriate funding of local government. We are all aware that local government is under the total control of state governments—and certainly that is the way it should be. What I am saying is that many regional councils are concerned about High Court challenges to the Commonwealth's powers to make direct payments for programs such as Roads to Recovery, which includes bridges, which are the lifeblood of local government. This legislation will give the Commonwealth power to grant financial assistance to local government bodies formed by a law of the state. The coalition has expressed in principle support for the financial recognition of local government but, as I said, some in the coalition disagree with it and they will vote accordingly. We actually have a democracy on this side of the parliament, whereas I realise that, if those on the other side of the parliament vote against Australian Labor Party lines, unless it is a conscience vote, they get kicked out. Good night, Irene.

While there has been a query about the Commonwealth's powers to fund local government directly, in the past it has been done under the appropriation powers under sections 81 of the Constitution or its executive powers under section 61 of the Constitution. One of the most successful programs, as I said, is the Roads to Recovery program. It has been a real benefit to the roads in country areas which carry so many of our exports, such as wheat as wheat, livestock, cotton—you name it. All up, direct payments to local government amount to about $500 million a year—an enormous amount of money. As I said, this has been a lifesaver, a breath of fresh air, to local governments, who simply cannot fund the their maintenance programs throughout many of the regional areas. In fact, I would say there would not be a local government or council in regional New South Wales that would have enough money to fund the upkeep, the maintenance and the improvements of the local road projects.

Over the past few years, more than 6,000 projects have been funded through direct payments from the Commonwealth to local government. About $2 billion in stimulus spending was granted to local government to spend on local community infrastructure. This money was spent without the waste and scandal that occurred in the states with the Commonwealth's Building the Education Revolution. Of course, there are various views among the state governments on this referendum, but the overwhelming majority of council want financial recognition. A poll conducted for the Australian Local Government Association found that 61 per cent of Australians support the recognition of local government. This was most pronounced in rural and regional areas. But the government have made a mess of the whole process. They have ignored much of what the expert panel had to say. The expert panel recommended that the Commonwealth negotiate with the states to get their support. I think that is vital, but the Labor government have made little attempt to do this. As I said earlier, this is another example of the government's inability to communicate and that they must rush things, which have been features of the Gillard government and also of the Rudd government prior to it. It is
three years from today that the political disposal of Mr Rudd occurred.

Not only does this government not communicate with the Australian people; it also does not communicate with the states. As I said at the start, we know the history of referendums in Australia and so if a referendum is to pass then the support of all governments—local, state and federal—is needed. We need time to sell that message. With the attempt by the government to fund one side of the debate to the tune of $10.5 million and the other side to the tune of $500,000, then no doubt here, in Canberra, the government is trying to influence the result. But many of the states are not on board—and, as I said, if you do not have the states on board, I think the chances of getting a yes vote up on 14 September are probably one in a million.

The coalition MPs made it clear that the Labor government has mismanaged this whole process—and that sounds familiar around here. I quote from their report:

Evidence received at the hearing suggested that the Government position was that negotiation could not occur with the States until a proposal was developed. Coalition members of the Committee reject this position and consider that the government has failed to make best use of the time since December 2011 by failing to undertake such negotiations and that this delay has potentially undermined the prospect of a full and informed referendum proposition being put in 2013.

They then went on to question whether the public will be properly informed of this whole question and whether they will receive sufficient information. Again I quote from their additional comments:

The second pre-condition which has not been met is that a viable educational campaign be conducted by the Federal government. The prospect of a referendum held in conjunction with this year's federal election raises a serious risk where the opportunity to fully inform the voting public through public education and other avenues has not been fully realised. Where a proposed change is worthy of support, a well-informed public will be more likely to support it and, if a proposed change has potential pitfalls, a well informed public will be more likely to identify those problems and vote accordingly.

Those members of the committee are correct in saying that past experience and referenda in Australia has shown that Australians tend to vote no if they do not fully understand the issues behind the question.

Let us look at the funding arrangements for the yes case and the no case. As I said, the government has given $10.5 million for one side and only $500,000 for the other side. As I said, life is about fairness, and that to me sounds very unfair. I repeat that, during the Howard government, when we had the 1999 referendum on Australia
becoming a republic, both sides were allocated $7 million to present their case. It is interesting to read the comments of Greg Craven, who is the Vice-Chancellor of the Australian Catholic University and a constitutional lawyer. He is quoted as saying 'this lopsided funding for the yes and no campaigns this time round would not pass the smell test'. The coalition believe the cases should be equally funded and have written to the Prime Minister in this regard.

This whole matter is just as the coalition feared: it is another mess, it is another rushed policy, it is another rushed piece of legislation. This week we face the prospect of having debate gagged on 53 pieces of legislation, and I see this piece of legislation being no different. There are 53 bills demanding proper scrutiny, and senators who wish to speak on the various piece of legislation will be denied the chance. The government set the agenda in conjunction with their colleagues the Greens. They control what comes in for this chamber. Again, they have made a total mess of it. The government are far too busy focusing on who will be the leader, and today they are running around the corridors doing the numbers because former Prime Minister Kevin Rudd has said, 'I've had this knife in my back for three years; it is about time someone else wore it.'

There will be many on our side who support this legislation—no doubt, the legislation will pass the Senate. But I think it has been rushed, ill-prepared legislation; that the public have been ill-informed; and that it is very wrongly financed, and very biased, with respect to support for both sides. The referendum, as I said, will more than likely go down. My only concern is that, if the referendum goes down, those fundings for local government, direct from the federal government, and we have another challenge to the High Court—what will be the result of that? I want to see that funding continue. As a former Deputy Prime Minister, John Anderson, said to us at a meeting prior to the introduction of the Roads to Recovery program: if it goes through the states, how much will be taken off for administration? We need to get the best bang for our buck, if I can put it that way, when it comes to financing projects, and the Roads to Recovery program is a classic example. I hope those projects continue, but I have little confidence in this referendum being accepted by the Australian people, because it is rushed, ill-prepared—and, if people do not understand it, they will simply vote no. I will be supporting this legislation. I will be voting yes for it on 14 September, but I think I will be on the losing team.

Senator RYAN (Victoria) (11:31): I rise to speak on the Constitution Alteration (Local Government) 2013, which puts forward an amendment to our Constitution to the people for their consideration, and to support the amendment put moved by the opposition. It is important to note that the debate in this chamber is not necessarily a debate regarding the merits of the proposal itself—although it may well be. This bill only puts forward a question that will be determined by the Australian people.

I will say at the outset that my comments are predominantly focused on the unprecedented funding announcement by the Labor government last Monday morning. Minister Albanese's announcement of $10 million for the 'yes' campaign, yet only $500,000 for the 'no' campaign, represents a new low in Labor's century-long war against our Constitution.

As I have stated in this chamber on numerous occasions, the coalition position is that we will not oppose the legislation that allows the referendum to be put before the Australian people. While we support the
ability of the Commonwealth to make payments to local government, this referendum should not be proceeding at this time, as the conditions laid down for it by the government's own advisors have not been met. This critical issue, however, will not distract us from the task of ensuring that 14 September is a referendum on this government—this Labor-Greens-Independents alliance—and the chaos they have brought to our polity.

In that context, the history of this particular proposal is worth recounting. It has been proposed twice by the Labor Party—in 1974 and in 1988. It has been rejected twice by the people—in 1988, by the largest majority for a no vote in referendum history. This proposal is part of the price paid to the Greens, and the so-called 'Independent' members of the House of Representatives, in order for Labor to gain their support to form government. However, it also follows the work of the panel led by the Hon. Jim Spigelman. But, as has been the case with panels considering specific proposals for constitutional amendment, often only advocates of an issue are appointed—so, by its nature, it is focused on only one side of the argument. The issue was also subsequently considered by a joint committee of this parliament at the beginning of this year. Both specifically considered the similar proposals that were rejected by the people in 1974 and 1988.

When one reads that background information, the chaos of this government's approach is immediately apparent—because, while the government and the Greens attempt to hide behind these reports, there are some profound differences between what was recommended and what has occurred. First, and most importantly, the very amendment proposed in this bill, and the very words the Labor Party propose to insert in our Constitution, are not the same words as considered in both those reports. This proposed constitutional amendment is different; and while, in the chaos of this government, such a small difference may not mean much, such a difference in words can be significant. In a Constitution, the fine print matters. This reflects the rushed nature of the government's handling of this issue. This proposed change has not been subjected to detailed examination. There remain genuine questions regarding the need for the amendment, given the provisions of section 96 of the Constitution, which remain unchallenged. There are also questions about the potential impact of these new words, specifically the potential interaction of this new power with section 109 of the Constitution, especially as, following the Williams case, appropriations now need a statutory basis. Furthermore, the government's timetable does not meet that outlined in the Spigelman report or that outlined by the Australian Electoral Commission. The Spigelman report outlined that the support of the states was a necessary condition—again, something the ALP have never seriously attempted and that clearly is not the case now.

This is where I turn to the funding announcement last week. In an unprecedented announcement, the government announced $10 million of funding for the yes campaign, yet only $500,000 for the no case. Let us pause for a moment to consider that—a 20 to one advantage to one side of this debate. This is nothing less than an attempt to rig the referendum. It is the financial equivalent of stuffing the ballot box. The ALP and the Greens act as if the budget is some sort of union slush fund, deeming the taxpayers' purse as a source of revenue for their own campaigns. This announcement followed the debate that occurred in this place during budget week on the Referendum (Machinery

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Provisions) Amendment Bill 2013. In that debate, representing the opposition, I questioned the minister, at the time Senator Jacinta Collins, specifically about the funding for campaigns and the so-called education program. No indication was provided that only one side of the campaign would be funded. Yet the government and their Greens allies saw fit to suspend the provisions of the referendum act in order to allow abuse of the process in a manner never before experienced in more than a century of referenda. These provisions are decades old and were put in place in order to ensure basic fairness in the referendum process. In my lifetime they have only been suspended once, in 1999, and they were suspended specifically to allow equal funding for yes and no campaigns. Imagine the outrage if John Howard had funded the no campaign differently to the yes campaign.

I note that some of the advocates for this bill and proposal in this chamber have tried to construct a historical basis for this outrageous decision. Senator Milne referred to the 1999 referendum. But the suspension of the ban on public funds was undertaken with agreement across the parliament to ensure funding for both sides of the argument. Senator Milne also mentioned the intervention of the High Court in the 1988 referendum. But that was because the ALP government was breaking the law! Following the suspension of this longstanding rule by the ALP and the Greens, I questioned the department and the minister in estimates hearings. This time Senator Lundy was representing the government, and again the opposition was misled. Senator Lundy, representing the government, said:

Perhaps I can offer you an assurance the government will be doing everything to make sure it is a fair process.

She also said:

It is certainly our intention to have a fair process. … we will do what we can and make it as fair a process as possible.

So there we have it—a pledge for fairness. Then we had the announcement last week. Let there be no claim that this is all a subsequent decision that was taken since the estimates hearings, because earlier in the same hearing it was made clear that these matters were still under consideration. At no point before the vote in the House of Representatives was the government's intention to rort the process outlined or hinted at. To rely on votes in the House for the first time ever, without outlining the impact of members' votes on campaign funding, is dishonesty of the highest order.

Yet, as insidious as the assault on democracy entailed in the rorted funding decision is the treatment of the Senate by this announcement. Minister Albanese states in his media release:

The amount of funding to be provided for each case will reflect the proportion of Members that voted for and against the Constitution Alteration (Local Government) Amendment Bill 2013.

The two Members who voted against the bill will be asked to determine the distribution of this funding.

This represents as serious an assault on the Senate as I can recall. I cannot think of the debates, deliberations and votes of one house of parliament being treated so contemptuously. Senators in this place should hang their heads in shame if they support the government only considering the decisions of members of the House of Representatives. Unlike many, indeed most, other parliaments, the two houses of the Commonwealth parliament are coeual in all respects other than the specified instances regarding the initiation and amendment of money, taxation and appropriation bills. The
Constitution itself reinforces this in section 53:

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

Section 128 of the Constitution goes to extraordinary lengths to describe the process in terms in which both houses can initiate and indeed put a referendum to the people. Despite the system of responsible government that the drafters established, that they left open the possibility of one chamber initiating a constitutional amendment is itself a sign of the trouble they went to in order to ensure equality of the two houses.

For the first time ever when it comes to a proposal to amend the constitution, Labor are attempting to undermine this principle. But principle is of no concern to this government. In a mere press release, the ALP have undermined longstanding constitutional arrangements. Anyone in this place who takes their role as a senator seriously must condemn this. To grant the vote and deliberations of one chamber a funding authority yet deny that same consideration to the other and to then grant the power to disburse that funding to members of one chamber and deny it to the other represents a grave assault on this Senate.

But this is just another step in Labor's century-long war on our constitution. Undermining our constitution has always been Labor's objective. As they have failed to convince the people again and again at referenda, Labor now attempts to rig the process—to fix the outcome—as if it is a dodgy union ballot. Labor's constitutional history is a litany of attacks on the Senate and our federal arrangements. A little history is important here, and it is a secret history the ALP does not want you to know. I can guarantee it will not make it into the ALP's national curriculum, as it is a history the ALP wants to hide. They are secretly ashamed of it, because the truth is that Labor had no hand in the formation of our nation. Labor had no hand in Federation, other than an attempted spoiling role. The labour leagues and the labour parties opposed federation. In the words of Stuart McIntyre, referring to the efforts of Henry Parkes in the early 1890s, following the 1891 convention:

In its political infancy the labour movement had in effect vetoed federation.

McIntyre also wrote, as the process of federation moved forward despite the efforts of the labour movement, leagues and parties:

The pro federal alliance of leading politicians, liberal and conservative, protectionist and free-trade, deprived New South Wales Labor of its power of veto and threatened to marginalise the smaller labour parties elsewhere.

When it came to elections for the later constitutional conventions, Labor's opposition to federation was reflected in their electoral failure.

In New South Wales, Labor ran candidates for ten seats; not one was elected. In South Australia Labor accepted four positions on a joint ticket led by Kingston; all four failed. Only in Victoria was there a successful labour candidate, a member of the joint ticket of the Age—one out of 50 delegates; completely irrelevant to federation. Following the conventions, Labor's true colours were shown at the subsequent referenda in 1898. That constitution was put to the people in New South Wales, South Australia, Tasmania and Victoria in June 1898. The Labor Party campaigned for a no vote in New South Wales, South Australia and Victoria, and its allies did so in Tasmania. Despite Labor's opposition, this great project succeeded.

The federation project and our constitution was a project of liberals—some radical, some more conservative, some
protectionist, some free-trading. But to all, the caucus and pledge that are so integral to the ALP then and now were utterly anathema.

I am constantly amazed by the attitudes of senators and members of other parties who attack those of my colleagues who dare to express a view different to their own party. Still, today, more than a century on from Federation, the drones of the ALP cannot cope with people expressing a view contrary to their pledge which places obedience above conscience.

The ALP could never accept that Deakin, Inglis Clark and Griffith would place checks upon the power of your new caucus and the mindless pledge you instituted. The pledge is a cowardly device, used as an excuse to absolve individuals of responsibility for the votes they cast in this place. Our refusal to have one is a difference that we are proud of. That we will never have a pledge is a difference we will always promote.

Even more objectionable to Labor was that the checks of a second chamber of parliament, a written constitution and federation were all endorsed by the people, and have been at every opportunity since. As Federation happened despite the Labor Party, it has long been hostile to our constitution.

Since then, the ALP has sought to attack the constitution at referendum after referendum, their last success being in 1946 with support from all levels of government across the country. Most failed referenda have been proposed by the ALP—overwhelmingly focused on centralising power and increasing the role of Canberra; often hidden behind the veils of national development or economic control.

Labor’s century-long war on our constitution finds its modern expression today through this biased funding of the referendum campaign and the rigging of debate, the attempted stacking of a referendum. The ALP has no defence for this, merely excuses. The ALP has argued that public opinion should be a guide, but how do they determine this? That is the very purpose of a referendum. If we are to use polls, then why not use polls for public funding of elections? That would be patently absurd. Yet this is no barrier to the government when it comes to this referendum—if they cannot win fairly, they will seek to stack the process in their favour. We should remember it was Queensland ALP who first put in place the Australian gerrymander. And now they are trying to rig this process as well.

The ALP has long been frustrated by its extraordinary lack of success in amending the constitution. Time after time, they propose change and the people reject it. Then they blame the people. It always frustrates the hubristic left that the people have the final say. So now the ALP attempts referendum rigging.

From left and Labor-aligned academics, historians and lawyers, we hear terms such as horse-and-buggy constitution, as if something lacked legitimacy, purpose or practicality because of its age. This illustrates the hubris of the left, as if they somehow know better than the people, as they have expressed time and again through referenda. I will take my horse-and-buggy constitution, one of the oldest democratic constitutions in the world, against that phenomenon of the 20th century any day—the constitution of the sectional interest, the mob or the rifle.

Let me finish with a warning based on the history of referenda, for both the government and their Greens cousins. I know some of my colleagues are genuine proponents of this proposal and wish to see a fair process. But specifically regarding the funding issue and
the announcement by Labor, I offer this specific warning: this sets a precedent that may not always favour your views. More generally, bipartisanship is a necessary condition for success in a referendum but it is not a guarantee. History is littered with examples of high hopes by governments—particularly ALP governments—as bills pass this place, only to be dashed on the rocks of the people actually casting ballots in secret.

On the same day in 1967 that 90 per cent of people voted for the referendum deleting section 127 of the Constitution and amending the race power, a bipartisan-supported referendum proposing the removal of the constitutional nexus between the House and the Senate was comprehensively defeated, with only 40 per cent support. More than half of the people who voted yes to one question also voted no to the other on the same day, despite them both having bipartisan support.

In 1977, on the day of successful referenda regarding casual vacancies in this place and the retirement of judges, the proposal for simultaneous elections for the House of Representatives and Senate failed. In both of these cases, the ‘no’ case was led by a handful of senators. In the case of 1967, I particularly note the efforts of several Democratic Labor Party senators who joined with several coalition senators in opposing that attack upon the Senate and who all won the day.

The Australian people take the notion of a referendum very seriously. To my mind, one of the greatest legacies of the drafters is that they prevented politicians from changing the Constitution. As it can only be altered with the direct consent of the people, it reflects their popular sovereignty. Despite Labor's attempts to rig this process through the most outrageous attack on the fairness of the referendum process itself, the final decision on this issue will be made by the people. The coalition does not oppose the people voting at referendum, but the process should reflect a fair debate.

Senator IAN MACDONALD (Queensland) (11:47): The Constitution Alteration (Local Government) 2013 is a very important bill and a very important matter. As someone who spent 11 years happily and proudly representing the people of my home town of Ayr on the Burdekin Shire Council, it is something that I have had a particular interest in for some time. I was also, for three years, the federal minister for local government. During that time, I had many discussions with the Australian Local Government Association and the Local Government Association of Queensland about this very issue. It is not a new issue; it has been around for a long time. There have been referenda in the past that have also touched on local government.

No-one in Australia would not applaud and accept the work that local authorities do in their own community. They are the sphere of government that is closest to the people, and because of that they are the most responsive. The councillors are people who are totally connected to their communities. They understand their communities and what their communities want. In my home state of Queensland, councils range from very small councils—for example, Croydon up in the Gulf of Carpentaria, with 300 or 400 people in the whole shire—to the Brisbane City Council, which represents some millions of people. It is a government that is, if not as big as, certainly better than Tasmania, with respect to my two Tasmanian colleagues the chamber. Although I think they would agree with me that, at the present time, the Brisbane City Council is far better run than the Tasmanian government is. Elsewhere in Queensland, there are a range of councils, all of which I have interacted with for many
years, as you would have, Madam Acting Deputy President Moore. By and large, they are a very professional group of people. Their administrations are very efficient, as I have been saying to a number of local governments that I have visited in the last three or four weeks whilst campaigning for the Queensland LNP Senate team and also for Noeline Ikin, the LNP candidate for Kennedy. She is a woman who I think we will see a lot more of in this parliament in the future.

As I have been meeting with those councils, I have been impressed yet again with their professionalism. As they come up to the budget season, I say to them all, 'It's a pity you can't go to Canberra and teach the Canberra government how to run a budget. If you ran your finances as badly as the Gillard government runs its finances, you would have been sacked and an administrator appointed long ago.' They understand that you cannot just keep borrowing and, if you do, somewhere along the line the crunch comes. This applies very much to local government but equally to the federal government. So I have a high regard for local government generally.

I said to local government 10 or so years ago, when I was the minister, 'You come to me with the right wording, with the support of all the state governments, and I will get a bill through parliament and we'll win a referendum on the subject.' But I warned them 10 years ago, 'Unless you can convince all the states on the wording of your bill, you're going to have trouble'—in effect, 'Don't waste my time or yours.' Since those times, I know they have put a lot of work into it. Local governments, with a lot of effort, have come up with what they believed to be the right words, so we are at this situation at the moment.

This is not a bill where we have to declare whether we are supporting the referendum question or not, but, with my background and with my association with local government, I am quite happy to say that I will be voting yes in the referendum. But I have to say I believe this referendum has been set up by the Gillard government to fail, and I fear that it will fail. I know that this will distress a lot of people. I know Councillor Paul Bell, a past distinguished president of both the ALGA and the LGAQ, very well. He is a committed Queenslander, a committed Australian and, indeed, he is committed to local government. He has been fighting for years for this referendum and to get it passed. I feel for him because, I regret to say, I do not think it is going to get anywhere. Councillor Margaret de Wit, the current president of the LGAQ, is an old friend of mine and a very good councillor on the Brisbane City Council. She is determined to do everything she can to get this bill passed and the referendum adopted by the people of Australia. As other colleagues have mentioned, the Premier of Queensland, Campbell Newman, a member of the LNP—I say that very proudly—has been one of Brisbane's greatest lord mayors. Of course, he fought very much for the constitutional recognition of local government in his time as lord mayor of one of the biggest council areas in Australia. And I know that Councillor Graham Quirk, the current Lord Mayor of Brisbane, is also in favour of it. And I could go through the whole of North Queensland and Central Queensland and mention all the mayors I have spoken to as recently as the last couple of months and indicate that all of them are working very hard to make sure that this referendum question does pass.

As other colleagues have mentioned in this debate, and in some more technical detail than I, effectively what local
government want is to be able to receive grants from the federal government without any constitutional question. That is what their desire is in this bill.

I am again proud to say that I was the Minister for Regional Services, Territories and Local Government who in this very chamber introduced the bill for Roads to Recovery, one of the most far-sighted and beneficial programs, if I do say so myself, ever to have been given to local government. It is a program that local governments love because the money comes straight from the federal government to local government. It is put straight to work. There is no shaving a bit off the top, as used to happen in the days of the Bligh Labor government in Queensland and, in fact, under other Labor governments around the states. Always they would take off anywhere between 25 per cent to 40 per cent as on-costs or project management costs. But Roads to Recovery funding went straight to the councils and it was used efficiently and effectively. There were more kilometres of roads built through the Roads to Recovery program than councils had been able to build for many years. I was told at the time that, provided the amount going to each council was set out in the bill, it was constitutionally proper. If you have a look at that original bill you will see that each council and the amount they received are contained in that bill that was passed first in this chamber and then by the House of Representatives.

But there have been the Williams and Pape cases that have been mentioned by others which have thrown some doubt upon the ability of the Commonwealth to fund local government. I know Western Australia, Victoria and other states are bit cautious about this. I suspect even in Queensland at the moment there is caution. The Minister for Local Government, Community Recovery and Resilience is Mr David Crisafulli, who again I am very proud to say worked for me for some time when I was the federal minister for local government. David was the Deputy Mayor of the Townsville City Council. He is now the local government minister in Queensland. I know his heart is with recognition of local governments so that funding can flow. I know that he and most other state people these days are a fraction cautious because of legal advice that has been given that suggests that this bill is not appropriate and would in some way lessen the powers of the states. My understanding of the objection—and this is in very layman's terms; it is certainly not legal or constitutional terms—is that if the federal government can without restriction give grants to local government then perhaps a recalcitrant federal government in the future might decide that all money allocated by the Commonwealth government for, say, health, education or roads can go straight to local government. In Britain local governments run schools and hospitals. If that happened, the question would be: what would state health departments do on education, health and road matters? So by subterfuge a recalcitrant federal government of the future could abolish the states by starving them of significant Commonwealth funds for education, housing, schools, hospitals and roads and, in this way, make state governments irrelevant.

Some people would have said, particularly in the days when all state governments were held by Labor, that that would not have been a bad idea. But those of us who are federalists—and, of course, the Liberal Party and the Nationals are federal parties—believe there is benefit in Australia from having three levels of government. We support that. We think that state governments do have a role to play in the administration and delivery of services like health and education. We certainly do not accept or for
a moment contemplate that all wisdom comes from Canberra. In fact, the more you travel around the remotest parts of our country, as I do regularly, you realise just how far away Canberra is—and I do not mean in kilometres.

As I say to many people in the regions, and in northern and remote Australia: Canberra is full of well-meaning and highly-educated people, but they simply have no understanding of what it is like to live and work in remote, regional or even urban northern and Western Australia and Queensland, or in other parts away from a capital city. And that is why having a system of government which represents people at closer levels is so important in Australia. That is why state governments are so important. I don't know what it is in other states, but in Queensland state members represent about 30,000 voters. Federally, of course, our lower house members represent about 90,000 or 100,000 voters. So, obviously, the connection between state members is far easier and greater than it is for my federal colleagues in the lower house. And, of course, local government, in many instances, is made of people who are your neighbours or your colleagues on the school committee, or fellow members in Lyons, Apex or Rotary, or in the swimming club or the various health committees around. So it is important.

So it is important to make sure local government can continue to receive funding direct from the federal government. It is also important, I think, that the ongoing role of the states is maintained. This is why I said earlier that, while I will be voting for this, I fear that this is not going to pass. My colleagues in this debate have made the very obvious, and I think irrefutable, argument about the imbalance in funding—and that is just unforgiveable in Australia. It does not matter what your view on anything is: in Australia, if you are having a referendum, both sides of the argument should be equally funded so that information gets out.

I am very concerned that the Gillard government, which is, typically, picking winners and losers and dividing Australia, as it always does, has effectively decided to fund one side of the argument and not the other. That is just unAustralian. It is unfair and it is not the sort of leadership we need from this federal parliament, or indeed the federal government.

Having said that, I am still fearful about the outcome of the referendum, because Australians will not really understand it—certainly people in local government and those of us in this room understand what it is all about, but the general public do not really care; they are not really interested. And in the couple of months that is going to be available for the proper campaign, the real facts and the real arguments are not going to get out. What Australians will think is: if in doubt, don't. I fear that is what is going to happen, in spite of the massive imbalance of funding for advertising.

This is why I said earlier that I think the Gillard government has set this up to fail. With so much of the Gillard government under the tutorship of Mr McTernan, it is all about the spin, it is all about the headlines in the paper, it is all about going to local government conferences and saying, 'Oh, fellas, we're all with you, vote for us—Ms Gillard's a great leader; we're with you.' But they do it in such a way that really limits the opportunities for local government to get this important piece of legislation passed by referendum.

We should have been having this debate 18 to 24 months ago. The debate should have been out there in the public. People should have been told what it is all about, how it will operate, what the facts and figures are,
what the pros and cons are. That way, you would have had an informed group of people voting at the referendum. As it is, on 14 September most people in Australia, about 70 per cent of them, will be concentrating on one thing—and I say this with some confidence, because I too can read the opinion polls—and that is getting rid of the current government!

They are not too interested in whether local governments get funding or not. They want to look after Australia. They want decent leadership in the Australian parliament and in government. They are just waiting for that day not to get into some erudite argument about funding for local government and the Pape and Williams cases. That will not be foremost in their minds. Foremost in their minds will be, 'What can we do to rid Australia of perhaps the worst government Australia has ever seen and the worst Prime Minister that Australia has ever had?' That is what they will be concentrating on on 14 September.

To put this referendum on the same day is, I think, guaranteeing it to fail. That is why I think that, again as with so much that the Gillard government have done, it is all spin. It is all the fluff that you get the headline for. It is not a serious attempt to fix the proper channels between the three spheres of government in Australia. I fear for of those who have put so much effort into this. They have convinced me. As I said, I will be voting for it. But I think we will be in the minority for the reasons that I have mentioned. This will go down as yet another feature of the awful nature of this current government. It is just a bad government. This is another example of them building hopes and aspirations and then taking actions that will ensure that those things never have to be adopted. It just reminds me of the Prime Minister's promise—'There will be no carbon tax under a government I lead'—that was deliberately telling mistruths to the Australian public. This bill, I regret to say, will be the same.

Senator COLBECK (Tasmania) (12:07): I rise to make my contribution on the Constitution Alteration (Local Government) Bill 2013. It was not initially my intention to speak on this piece of legislation because there is a process that we all understand within our parties where consideration and discussion around pieces of legislation that come forward is held. We, like all other parties, conducted that process within our own party. But when I heard that the government had made the decision to gerrymander the case for the financial support of this recommendation I thought I had no choice. It is one of the more disgraceful actions that this government has undertaken—this government that in its initial incarnation in 2007 talked about more evidence based policy, this government that talks about consultation. I have to say that it talks about it a lot more than it actually practises it. For the government to make the decision to fund the yes and no cases based on the votes in the House of Representatives is, quite frankly, a simple disgrace, particularly given that nobody was given an indication that that might be the case before the vote was taken. In that context, it is the worst kind of gerrymander because it was completely and utterly hidden from everyone.

We know that there are a number of views in this place around the constitutional recognition of local government. We know that there has been a process of consultation and that there was an expert inquiry set up. We know that those discussions have been held. We also know what the recommendations of that process are. Like Senator Macdonald, the speaker before me, said, there will be a variation in views in relation to this. But for the government to
sabotage the process in the way that they have is, quite frankly, disgraceful.

Last week, we had members of local government from all over Australia in town. They were very distressed at the circumstance that they found this debate in. They believed that the government had set them up to fail. They believed that this process would fall over because of lack of consultation and because of the way that the government was managing this. There was a resignation that this process to call for the constitutional recognition of local government would fail yet again. They believed that it had been set up by the government for that to happen.

That was exacerbated when the revelation came from Minister Albanese that the funding would be based on the votes in the House of Representatives. For two people, regardless of their political persuasion, to be deciding how that funding would be allocated, really destroys the fundamental tenets of democracy in this country. This is no way to go about amending our Constitution. That is what we are talking about. We are talking about the foundation rules of the way this country is governed. Yet the government seem to want to use it as a plaything or a political wedge. Are they trying to set up the federal Labor Party against conservative states? What are they actually trying to do here? They ignored their own inquiry, which recommended giving this process significant consultation and discussion with the states. Their expert panel supported a referendum in 2013. That is not so much of a problem. But it was subject to two conditions: first, that the Commonwealth negotiate with the states to achieve their support for the financial recognition options; and, second, that the Commonwealth adopt steps suggested by the ALGA necessary to achieve an informed and positive public engagement with the issue, as set out in the section of the report on the concerns about a failed referendum. So the Local Government Association themselves wanted to see an informed process of consultation. The first time that the minister wrote to his state government counterparts about this was February of this year. Yet he failed to develop any comprehensive public engagement strategy or campaign, and then he tried to gerrymander the yes and no cases through completely and utterly disproportionate funding.

I spent time in local government before coming into this place. People often used to ask me whether I enjoyed it. My regular answer was, 'Yes, but I'm not sure if I should.' It really was an enjoyable part of our democracy to be a representative of. I enjoyed the interactions in my local community. I understood the importance and the value of the Commonwealth programs that interacted directly with local government. The Roads to Recovery program, which has been spoken of by many in this chamber, was highly regarded and valued by us at a local government level. So of course there was concern when the Pape and Williams cases cast doubts over that funding. We have seen legislation passed through this place and the other place quite quickly, to provide some foundation for the continuation of that funding. But it does not take away the fact that the government has a responsibility, when dealing with changes to our constitution, to deal with them honestly and fairly. There is no doubt in my mind that they are not doing that in this case. You cannot justifiably say that the funding for the yes and no cases, based as it is, is honest and fair. There is no way known that the case can properly be put on a fair and equal basis with funding at the level that it is.

That is what has drawn me into this debate, as someone who has sat around the table in local government and who has now
spent a fair period of time in this place. My sense of fairness was clearly motivated by the disgraceful performance of the minister and the government in their management of this particular issue. They sprung this onto the Australian people so close to the election when their own expert panel had recommended full consultation over a considerable period of time. In fact, the Electoral Commission said that they preferred a 27-week campaign. They commented:

There are significant risks associated with campaign development in such a short timeframe. For example, the period for market testing included is too short to provide assurance that the advertising materials are fit for purpose (consistent with the Government’s campaign advertising guidelines) for mainstream and a range of special audiences.

The truncated timeline includes suppliers working across weekends and public holidays—estimated costs will increase as a result.

Even the Electoral Commission is saying that this process is flawed. No wonder the local government representatives who were here last week believe that they have been set up to fail. No wonder that is the view.

I said earlier that this government have talked about evidence based policy and their evidence based policy development. Under what circumstances does this legislation or the approach to the yes and no cases fit those criteria? On what basis does it fit those criteria? It cannot possibly. How can you possibly provide an adequate campaign for the no case based on the funding that has been offered? It is one-twentieth of that being offered for the yes case, let alone including what other interested parties might end up contributing.

Senator Macdonald, just prior to my presentation, talked about the potential negatives that might occur from constitutional recognition of local government. It does have the potential to upset the Commonwealth-state balance of funding because it is possible for the Commonwealth to go straight past state governments to local governments. Isn’t it a responsibility of the government in that circumstance to provide the pros and cons for the potential implications of this change to our Constitution? That is the thing that really gets to me more than anything else. We are talking about changing our Constitution based on something that has been done at the last minute and is inadequately funded for the yes and no cases. The government seems to think this is all okay.

No wonder there are huge doubts around the way this government operates. No wonder there is such scrutiny. No wonder there is so little confidence in this government in the broader community. This approach to the changing of our Constitution actually summarises quite neatly the perspectives that are being put to me about this government when I go out into the community. That is that they consult but do not listen. When they do consult it is show and tell. It is not a two-way discussion. They are there to tell you what they are going to give you. They do not ask you what you want. They are going to give you what they want to give you. There is no consultation about it. Then they do not act on the process anyway.

The government set up an expert panel to investigate this process. It reported, the government sat on the report and, at the last minute, perhaps because they needed another issue to distract them from the leadership, they decided to trot this out. They dropped it on the Australian people. They talk about fair process. They talk about equal funding. They talk about the fact that people need to understand this. But, when it comes to the funding of it, the process completely fails.
Then, after the debate in the House of Representatives, after that process had been completed, they decided to announce that they were going to fund the yes and no cases based on the votes in the House of Representatives. If it had been a true process, a fair process, perhaps they should have given that information out beforehand so people could make a judgement on that. There were discussions in this place and the other place around voting on the piece of legislation, because there are a range of views, but of course the government kept that bit secret so they could set up the gerrymander. That is an absolute disgrace and it is an insult to this chamber. Perhaps that is a reflection of what the government thinks about this place—I am not sure. But I have to say it is of great concern to me.

As I said at the outset, it was not my intention to make a contribution in this debate. I have my views, but my party had made the decision that the Australian people should have the opportunity to vote on this matter and I was comfortable with that. That was the decision that my party had made. But from the outset I have been personally offended by the way that this government has managed the process. This is no way to manage an alteration to our Constitution. Like Senator Macdonald, I fear that this process has been set up to fail. The further it goes, the murkier it gets, basically because of the way that it has been managed, as I have discussed during my contribution. The government sprung it on the parliament and the Australian people at short notice, did not follow the advice of the expert panel, ignored the advice of the Australian Electoral Commission and then gerrymandered the yes and no case funding debates. What can you find in this entire process that could be considered straight, as you might put it in the Australian context? What could be considered to give this a fair chance of being debated properly within the Australian community so they can make a considered decision, an informed decision? Isn’t that what this ought to be all about?

The thing that really disturbs me is the approach that the Australian Greens are taking in supporting this, when we hear from them consistently about open politics, about democratic process. We even hear their former leader talking about one world government, where everybody gets an equal vote. Yet they are not prepared to support equal funding of this particular case in this particular debate—and we are talking about our Constitution, the Constitution of the Commonwealth of Australia. The government wants to put a proposal to amend it through a completely and utterly rigged process. You could not call it anything else. You could not describe it in any other way at all. This deal is rigged. The unfortunate thing for people who might like to support the amendment of the Constitution in this place is that it is most likely set up to fail. I cannot describe my disgust at this process in strong enough terms, but I think anyone listening might get the gist. This is no way to treat the Constitution of the Commonwealth of Australia.

**Senator McEWEN** (South Australia—Government Whip in the Senate) (12:24): I too would like to contribute to this debate on the Constitution Alteration (Local Government) 2013. I think it is very important to clearly put into the debate what this amendment to the Constitution is all about. What is proposed is a small but very important amendment to the Australian Constitution. I agree with other senators that we should not take lightly amendments to our Constitution and that we should not proceed down this path until such time as such a change has been thoroughly investigated. This proposed change to the Constitution does come after consideration
by the community as a whole but, in particular, by the expert panel that was set up by the government to consider constitutional reform in local government so that local government would be specifically mentioned in the Australian Constitution. It also follows on from the report of the Joint Select Committee on Constitutional Recognition of Local Government, set up by the federal government, and including members of all parties, to further investigate how we could progress this very important issue.

What the amendment to the Constitution would do is ensure that local government would be recognised in the Constitution by inclusion of an express statement that the Commonwealth can grant financial assistance to local government. That is something that has been missing from the Constitution and it has been the subject of attempts to change the Constitution in the past. It is very important that we do make this change to the Constitution, because there is some debate as to whether or not the financial assistance that the Commonwealth provides to local government is safe and secure in terms of legal challenges. Of course, this is a change to the Constitution that has been proposed by local governments across Australia. I, along with many of my colleagues, was at a dinner the Sunday night before last with members of local government from around Australia, and the discussion there was wholeheartedly in support of this change to the Constitution.

I think it is important to reflect as well about what could potentially be at stake here if this bill does not get up and if the constitutional referendum does not get up when the federal election is held later this year. We are talking about the services local government provides with financial assistance from the Commonwealth. We are talking about services that are very valuable to all of our constituents and all of our communities. We are talking about important services that local governments provide such as child care. We are talking about services such as roads, which all of us know local governments provide and maintain. But there are lots of other services that local government provides that perhaps are not as well known. I am thinking of programs that assist people in aged care and people with disabilities. I am talking about really important locally based arts programs that assist artists to exhibit their works and promote them. I am talking about dog and cat management by local government as well. That is another important thing that affects all of us who are fortunate enough to have pets. I am talking about management of parks and grass verges, and bushfire management, which is very important in my state. I should also mention libraries, which are a very important service, particularly these days with the different kinds of technology available. Our local governments provide all of these services and they do it with the support of both state and federal governments.

One of the issues that has been raised about the proposed amendment and the forthcoming constitutional referendum is that somehow it will take away states' rights with regard to their relationship with local government. Nothing could be further from the truth. This amendment and the constitutional referendum, if successful, will not detract from the rights of states and the way that they interact with local government—and, of course, local governments are established under state acts. All that this amendment will do is ensure that the financial arrangements between the Commonwealth and local governments are secure.

I think it is disingenuous of the opposition in particular to run the half-hearted line that they do support the amendment but do not
support constitutional recognition of local government. Senator Barnaby Joyce, the Leader of the Nationals in the Senate, was happy to stand on the stage with Minister Albanese at the local government dinner a couple of Sundays ago and wholeheartedly support this proposed change to the Constitution so that local government is recognised. I think there is some division in the opposition ranks as to what their position should be on this particular amendment and that is coming forward as they are trying to obfuscate the debate by dragging it out and raising all sorts of red herrings. When this is explained to the Australian people properly there will be overwhelming community support for this very important change to the Constitution so that we can have a referendum on the constitutional recognition of local government.

Senator JACINTA COLLINS
(Victoria—Manager of Government Business in the Senate and Parliamentary Secretary for School Education and Workplace Relations) (12:29): I move:

That the debate be now adjourned.

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

That the debate be now adjourned.

The Senate divided. [12:35]

Ayes................. 37
Noes............... 33
Majority............. 4

AYES

Bilyk, CL
Brown, CL
Carr, KJ
Collins, JMA
Di Natale, R
Furner, ML
Hanson-Young, SC
Lines, S
Ludwig, JW
Marshall, GM
McLucas, J

Bishop, TM
Cameron, DN
Carr, RJ
Crossin, P
Faulkner, J
Gallacher, AM
Hogg, JJ
Ludlam, S
Lundy, KA
McEwen, A (teller)
Milne, C

AYES

Moore, CM
Pratt, LC
Siewert, R
Stephens, U
Thistlethwaite, M
Urquhart, AE
Whish-Wilson, PS
Wright, PL

NOES

Abetz, E
Bernardi, C
Boswell, RLD
Brandis, GH
Cash, MC
Cormann, M
Eggleston, A
Fierravanti-Wells, C
Heffernan, W
Johnston, D
Kroger, H (teller)
Madigan, JJ
McKenzie, B
Parry, S
Ronaldson, M
Ryan, SM
Xenophon, N

Back, CJ
Birmingham, SJ
Boyce, SK
Bushby, DC
Colbeck, R
Edwards, S
Fawcett, DJ
Fifield, MP
Humphries, G
Joyce, B
Macdonald, ID
Mason, B
Nash, F
Payne, MA
Ruston, A
Smith, D

PAIRS

Conroy, SM
Farrell, D
Feeney, D

Conroy, SM
Scullion, NG
Farrell, D
Xinodonos, A
Feeney, D
Williams, JR

Question agreed to.

BUSINESS

Rearrangement

Senator JACINTA COLLINS
(Victoria—Manager of Government Business in the Senate and Parliamentary Secretary for School Education and Workplace Relations) (12:38): I move:

That—

(1) On Monday, 24 June, Tuesday, 25 June, Wednesday, 26 June and Thursday, 27 June 2013, any proposal pursuant to standing order 75 shall not be proceeded with.
(2) On Wednesday, 26 June 2013, consideration of:
   (a) matters of public interest; and
   (b) government documents shall not be proceeded with, and instead the routine of business shall be government business only.

(3) Divisions may take place on:
   (a) Wednesday, 26 June 2013, from 12.45 pm to 2 pm; and
   (b) Thursday, 27 June 2013, after 4.30 pm.

(4) On Monday, 24 June 2013:
   (a) the hours of meeting shall be 10 am to 6.30 pm and 7.30 pm to 11.40 pm; and
   (b) the question for the adjournment of the Senate shall be proposed at 11 pm.

(5) On Tuesday, 25 June 2013:
   (a) the hours of meeting shall be 11 am to 6.30 pm and 7.30 pm to adjournment;
   (b) the routine of business from not later than 7.30 pm shall be government business only; and
   (c) the question for the adjournment of the Senate shall be proposed at 10.30 pm.

(6) On Wednesday, 26 June 2013:
   (a) consideration of the business before the Senate shall be interrupted at approximately 5 pm, but not so as to interrupt a senator speaking, to enable Senator Lines to make her first speech without any question before the chair; and
   (b) immediately after Senator Lines’ first speech, valedictory statements may be made relating to Senators Joyce and Humphries.

(7) On Thursday, 27 June 2013:
   (a) the hours of meeting shall be 9.30 am to 6 pm and 7 pm to 11.40 pm;
   (b) the routine of business from not later than 3.30 pm to 4.20 pm and not later than 7 pm shall be government business only; and
   (c) the question for the adjournment of the Senate shall be proposed at 11 pm.

(8) The Senate meet on Friday, 28 June 2013, and that:
   (a) the hours of meeting shall be 9.30 am to 3.40 pm;
   (b) the routine of business shall be:

   (i) notices of motion, and
   (ii) government business only; and
   (c) the question for the adjournment of the Senate shall be proposed at 3 pm.

(9) The following government business orders of the day shall have precedence over all other government business, be called on in the following order and be considered under a limitation of time, and that the time allotted for all remaining stages be as follows:

<table>
<thead>
<tr>
<th>Order of the Day</th>
<th>Time</th>
</tr>
</thead>
<tbody>
<tr>
<td>Constitution Alteration (Local Government) Bill 2013</td>
<td>commencing no later than 7.30 pm until 8 pm on 24 June 2013</td>
</tr>
<tr>
<td>Sex Discrimination Amendment (Sexual Orientation, Gender Identity and Intersex Status) Bill 2013</td>
<td>commencing immediately after the preceding item until 9 pm on 24 June 2013</td>
</tr>
<tr>
<td>Australian Sports Anti-Doping Authority Amendment Bill 2013</td>
<td>commencing immediately after the preceding item until 9.45 pm on 24 June 2013</td>
</tr>
<tr>
<td>Superannuation Legislation Amendment (Service Providers and Other Governance Measures) Bill 2013</td>
<td>commencing immediately after the preceding item until 10.50 pm on 24 June 2013</td>
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<tr>
<td>Superannuation (Sustaining the Superannuation Contribution Concession) Imposition Bill 2013</td>
<td>commencing immediately after the preceding item until 11.50 pm on 25 June 2013</td>
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<tr>
<td>Superannuation Laws Amendment (MySuper Capital Gains Tax Relief and Other Measures) Bill 2013</td>
<td>commencing immediately after the preceding item until 10.50 pm on 24 June 2013</td>
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<tr>
<td>Tax and Superannuation Laws Amendment (Increased Concessional Contributions Cap and Other Measures) Bill 2013</td>
<td>commencing immediately after the preceding item until 10.50 pm on 24 June 2013</td>
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<tr>
<td>Banking Amendment (Unclaimed Money) Bill 2013</td>
<td>commencing no later than 11 am until 11.40 am on 25 June 2013</td>
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<tr>
<td>Bill Title</td>
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<tr>
<td>Early Years Quality Fund Special Account Bill 2013</td>
<td>immediately after the preceding item until 12.20 pm on 25 June 2013</td>
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<tr>
<td>Australia Council Bill 2013</td>
<td>immediately after the preceding item until 1.45 pm on 25 June 2013</td>
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<tr>
<td>Australian Jobs Bill 2013</td>
<td>immediately after the preceding item until 8.10 pm on 25 June 2013</td>
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<tr>
<td>Tax Laws Amendment (2012 Measures No. 6) Bill 2012</td>
<td>immediately after the preceding item until 8.50 pm on 25 June 2013</td>
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<tr>
<td>Customs Amendment (Anti-dumping Measures) Bill 2013</td>
<td>immediately after the preceding item until 10.20 pm on 25 June 2013</td>
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<tr>
<td>Australian Aged Care Quality Agency Bill 2013</td>
<td>commencing immediately after the preceding item until 10.15 am on 26 June 2013</td>
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<tr>
<td>Australian Aged Care Quality Agency (Transitional Provisions) Bill 2013</td>
<td>commencing immediately after the preceding item until 1.55 pm on 26 June 2013</td>
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<tr>
<td>Aged Care (Bond Security) Levy Amendment Bill 2013</td>
<td>commencing immediately after the preceding item until 1.20 pm on 26 June 2013</td>
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<tr>
<td>Australian Education Bill 2013</td>
<td>commencing immediately after the preceding item until 1.55 pm on 26 June 2013</td>
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<tr>
<td>Migration Amendment (Temporary Sponsored Visas) Bill 2013</td>
<td>commencing immediately after the preceding item until 1.40 pm on 27 June 2013</td>
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<tr>
<td>Veterans’ Affairs Legislation Amendment (Military Compensation Review and Other Measures) Bill 2013</td>
<td>commencing immediately after the preceding item until 1.55 pm on 27 June 2013</td>
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<td>Bill</td>
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<tr>
<td>Competition and Consumer Amendment Bill 2013</td>
<td>commencing no later than 3.45 pm until 4.30 pm on 27 June 2013</td>
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<tr>
<td>Charities Bill 2013 and Charities (Consequential Amendments and Transitional Provisions) Bill 2013</td>
<td>commencing immediately after the preceding item until 7.40 pm on 27 June 2013</td>
</tr>
<tr>
<td>Crimes Legislation Amendment (Law Enforcement Integrity, Vulnerable Witness Protection and Other Measures) Bill 2013</td>
<td>commencing immediately after the preceding item until 8.20 pm on 27 June 2013</td>
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<tr>
<td>Fair Work Amendment Bill 2013</td>
<td>commencing immediately after the preceding item until 10 pm on 27 June 2013</td>
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<tr>
<td>Private Health Insurance Amendment (Lifetime Health Cover Loading and Other Measures) Bill 2012</td>
<td>commencing immediately after the preceding item until 10.55 pm on 27 June 2013</td>
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<tr>
<td>Private Health Insurance Legislation Amendment (Base Premium) Bill 2013</td>
<td>commencing no later than 9.35 am until 10 am on 28 June 2013</td>
</tr>
<tr>
<td>Tax Laws Amendment (Fairer Taxation of Excess Concessional Contributions) Bill 2013</td>
<td>commencing immediately after the preceding item until 10.30 am on 28 June 2013</td>
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<tr>
<td>Tax Laws Amendment (Superannuation (Excess Concessional Contributions Charge) Imposition Bill 2013</td>
<td>commencing immediately after the preceding item until 11.30 am on 28 June 2013</td>
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<tr>
<td>Health and Other Legislation Amendment Bill 2012</td>
<td>commencing immediately after the preceding item until 11 am on 28 June 2013</td>
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<tr>
<td>Agricultural and Veterinary Chemicals Legislation Amendment Bill 2013</td>
<td>commencing immediately after the preceding item until 11 am on 28 June 2013</td>
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<tr>
<td>Public Governance, Performance and Accountability Bill 2013</td>
<td>commencing immediately after the preceding item until 11.20 am on 28 June 2013</td>
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<tr>
<td>Tax Laws Amendment (2013 Measures No. 1) Bill 2013</td>
<td>commencing immediately after the preceding item until noon on 28 June 2013</td>
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<tr>
<td>Tax Laws Amendment (2013 Measures No. 2) Bill 2013</td>
<td>commencing immediately after the preceding item until noon on 28 June 2013</td>
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<tr>
<td>Tax Laws Amendment (2013 Measures No. 3) Bill 2013</td>
<td>commencing immediately after the preceding item until noon on 28 June 2013</td>
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<tr>
<td>Higher Education Support Amendment (Asian Century) Bill 2013</td>
<td>commencing immediately after the preceding item until 12.40 pm on 28 June 2013</td>
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<tr>
<td>Social Security Amendment (Supporting More Australians into Work) Bill 2013</td>
<td>commencing immediately after the preceding item until 1.30 pm on 28 June 2013</td>
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<tr>
<td>Appropriation (Parliamentary Departments) Bill (No. 1) 2013-2014</td>
<td>commencing immediately after the preceding item until 2 pm on 28 June 2013</td>
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<tr>
<td>Appropriation Bill (No. 2) 2013-2014</td>
<td>commencing immediately after the preceding item until 2 pm on 28 June 2013</td>
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<tr>
<td>Sugar Research and Development Services Bill 2013</td>
<td>commencing immediately after the preceding item until 2.20 pm on 28 June 2013</td>
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<tr>
<td>Sugar Research and Development Services (Consequential Amendments and Transitional Provisions) Bill 2013</td>
<td>commencing immediately after the preceding item until 2.20 pm on 28 June 2013</td>
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<tr>
<td>Sugar Research and Development Services (Consequential Amendments—Excise) Bill 2013</td>
<td>commencing immediately after the preceding item until 2.20 pm on 28 June 2013</td>
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(10) Paragraph (9) of this order shall operate as a limitation of debate under standing order 142.
This motion, lodged last Thursday, sets up debate to give the Senate additional time to consider a range of government bills before the end of the winter session. As senators know, the winter session is generally a reasonably short period. The government has a legislative program which is extremely important. This motion will allow senators time to place on record their views on government legislation but not to continue through repetitious second reading contributions, as has occurred to date.

I acknowledge that debating bills under time limits restricts debate and that this should only be done when necessary, and the bills listed in the motion today are indeed necessary. When one looks at the government's agenda, one sees that it is a broad agenda which has been on notice for quite some time. With a couple of exceptions, the bills listed have a 1 July 2013 start date. The bills contain a number of benefits from 1 July. For instance, increasing the superannuation concessional contribution cap to $35,000 and increasing the income-free threshold that applies to recipients of Commonwealth payments—just to name a few. We have also consulted senators and allowed for other bills to be listed, such as the Sugar Research and Development Services Bill. In many cases the bills implement changes that have had a long and detailed gestation period with policy development, extensive community engagements and even parliamentary scrutiny through the committee system and estimates over many years.

In the case of the aged-care package of bills the opposition agrees that reforms are required in this area. The package involves a comprehensive 10-year plan to reshape aged care and the package has been negotiated over the last 24 months. The Australian education package also fits this category. It has been clear for many years that a new basis for funding schools is required. After years of consultation and negotiation this package needs to be passed so that improved funding can be in place for 2014. Even the opposition must see the need for a new funding model for schools, even though it will not agree publicly with any outcome that addresses the disadvantage it has finally accepted exists in the current system and the system is due to expire at the end of this year and schools need that certainty.

The Constitutional Alteration Bill has an even tighter deadline, with this bill having to pass by this Wednesday. If the opposition is serious about supporting this bill its members should be facilitating its passage instead of continually adding to its speaking list. We are here to get the job done, not to allow for further time wasting, such as the division that occurred on that last motion. As anyone who has read the Notice Paper would see there is a lot of legislation before the chamber. If the progress of the Environment Protection and Biodiversity Conservation Amendment Bill is any guide, where the opposition doubled its speakers—and it took almost a full week of government business time for the bill to be considered—you can understand why the government has moved today's motion. As I have said about time management motions in this place before, the Senate needs to address the amount of time devoted to government business in regular sitting weeks. The chamber needs to make room for more government business. Unless the government has around 50 per cent of the time of the chamber, time management motions will continue to be required if key bills in any government legislation program are to be dealt with.

Senators would be aware that it is not unusual for such a motion to tightly order business of the Senate in the last few sitting days of the parliamentary sitting. This motion is not unprecedented, especially at
the end of a parliament. Let's not forget when the coalition was last in government how it treated the Senate. Remember when WorkChoices went through both houses of the parliament in one day. Let's also look at how it gagged debate on the sale of Telstra and on Medibank—just to name a few. The only workable option for the government is to move this motion to provide for more time to deal with government business. Governments of all persuasions are faced with the same options in managing their legislative program. When they can, governments use time management motions to structure debate, and, as I have said, particularly at the end of an important session.

The motion opens the opportunity for the Senate to be adaptable, as it was last week with respect to the non-controversial legislation. The Senate can be adaptable in its approach to debating legislation for this week. For these last few days this motion is the most effective way for the Senate to manage its time. The motion would set out clearly the chamber's expectations for debate on legislation. Opposition senators may not appreciate reasonable attempts to manage time, but senators on this side of the chamber are focused and determined on governing for the Australian people.

There is important legislation that needs to be passed: legislation that impacts on the daily lives of Australian people. The community would expect us to get on with that job, and that is exactly what we are doing. It is, after all, one of the core duties of the Senate to consider government legislation, and indeed deal with it rather than delay it. I ask senators to support this motion.

**Senator FIFIELD** (Victoria—Manager of Opposition Business in the Senate) (12:45): You did not have to be Nostradamus to predict last week that this motion was going to come before this chamber. Last week I predicted that, as sure as night follows day, Senator Collins would move a motion seeking to guillotine debate in this place. I urged Senator Collins at the time to resist the calls from Mr Albanese in the other place. I gave Senator Collins the benefit of the doubt, that she actually held this chamber in some regard. I urged her to say to Mr Albanese in the other place: 'No, Mr Albanese, I will not move a guillotine motion in the Australian Senate, because I believe the Australian Senate, as a house of review, has a job to do. I won't do that, Mr Albanese. That might be how you play things in the House of Representatives but it is not how we do things in the Senate.' I urged Senator Collins to stand up for this chamber, to stand up for its rights, to stand up for its prerogatives—but, clearly, she was not up to the task. She wilted at the first phone call from Mr Albanese.

What is clear from Senator Collins' contribution to this debate is that the government views the legislative process in the Australian Senate as somehow a courtesy that the executive extends to the Senate chamber, that it is not the right of this chamber to fully examine and debate legislation. That was very much the Paul Keating view of the world: that question time was a courtesy extended by the executive of the parliament. And now we are seeing this government say that debate on legislation is a courtesy extended by the government to the Senate, and that courtesy may be taken away when it suits the government of the day. It is a manifestation of arrogance and of incompetence.

Governments from time to time will say, 'Look, we don't know when the election will be; we need to get a program of legislation through the parliament—who knows when the election may be'. But that is not the
circumstance here. This government set the date of the election at the start of the year. If there were ever a government that had the opportunity to plan and to manage, it is this government—they have known from the start of the year the date of the election; they set the sitting schedule; they have had every opportunity to manage their legislative program through this place.

And let it not be said for a second that the opposition have in any way been anything other than cooperative and responsible during this term of parliament. I will take just last week as an example. The opposition facilitated the passage of 23 pieces of legislation. Where legislation is not controversial, or where legislation has been thoroughly examined, we are very happy to facilitate the passage of legislation. If we feel that only one contribution is required, then that is all that will be made in this place. We have not sought to frustrate, to thwart, to filibuster legislation in the Senate in this term of parliament—on the contrary, we have been highly cooperative. If you look at the legislative score card, the amount of legislation that has passed through this place bear that out.

The government cannot have it both ways. They cannot say, on the one hand, as they have, day after day, that this parliament is working extremely well—they cite the hundreds of pieces of legislation they have got through the chamber—and then on the other hand say that the opposition is being obstructive, that the opposition is filibustering, that the opposition is delaying and thwarting debate and discussion. You cannot hold those two propositions at the same time. One of them is right and one of them is wrong. You cannot hold both of those propositions at the same time.

There has been a lot of bad legislation that has passed through this parliament; I grant you that. But the opposition cannot be accused, in any way, shape or form, of denying or delaying the passage of legislation in this place. We have a perverse situation here where the government are saying that they want to extend hours in order to allow for further debate. That is wrong. The government are seeking to extend hours so that they have the opportunity to guillotine more bills. What is given with one hand is taken away with the other. I could understand if someone was listening to the proceedings of this place thinking, 'It sounds a reasonable thing to extend the hours of debate.' It might be a reasonable thing if the purpose of extending the hours of debate was not to force more bills through this chamber and to guillotine more bills in this chamber. We do not have a particular issue, as such, with sitting longer, but we do when the sole purpose of adding a few extra hours to debate in this place is in order to guillotine more legislation and gag more debate. We cannot support that.

I just want to tackle something that Senator Collins said about how our side of the chamber when in office handled the guillotine or 'time management', as she more euphemistically puts it. There are 55 bills that are listed in this motion to guillotine. There are 55 bills where debate will be gagged. Of those 55 bills, there are 49 bills that will have less than one hour of debate. Of that number, there are 17 bills that will have less than 15 minutes of debate. Actually, it will not be 15 minutes of debate. Of that number, there are 17 bills that will have less than 15 minutes of debate. Actually, it will not be 15 minutes of debate. That is 15 minutes for all stages—debates, divisions, everything. When you add those 55 bills that will be guillotined by this government to the bills that have already been guillotined by this government in this parliament, it will take the total number of bills guillotined in the Senate by this government to 216. If you
compare that three-year period to the three years that the coalition had control of the Australian Senate when we were in office, we guillotined only 32 bills. That is 32 bills compared to 216.

There will always be a role for some judicious use of the guillotine by the government of the day, but it is something that should be used sparingly. It is something that should be used in exceptional circumstances. This government use the guillotine as a routine tool of governing. When the numbers are used in the chamber for a guillotine as a routine part of governing, that steps over into an abuse of process. That steps over into denying the voices within this chamber the chance to have their say on behalf of the Australian people. Obviously I am very protective of the rights and prerogatives of this chamber and of the senators within, but I am even more protective of the fact that senators in this place are the voices of the Australian people. If you are denying Australian senators the right to properly debate and scrutinise legislation, you are denying Australians the right to have legislation scrutinised. You are denying their entitlement to have their representatives scrutinise legislation on their behalf. So, while we are obviously offended as senators out of concern for this chamber and its processes, we are even more offended on behalf of the Australian public that their right to have their legislation scrutinised is being denied.

If there is one piece of legislation in this package of 55 bills where the denial of the opportunity to scrutinise is emblematic, it is the bill to provide for a referendum question in relation to local government. If there is any type of bill that should be sacrosanct, if there is any type of legislation where debate should not be curtailed, surely it is legislation that proposes a change to the nation's Constitution. It is bad enough that this government seeks to deny equal funding to the 'yes' case and the 'no' case for a referendum. That is bad enough. That is unprecedented. In fact, I am still having difficulty coming to grip with the fact that there is an Australian government that would deny equal funding for a 'yes' case and a 'no' case. I never thought I would see the day when an Australian government would seek to pervert and to skew the mechanics and the processes of an Australian referendum to obtain an outcome that it desires.

It is completely immaterial whether the parliament as a whole supports that particular outcome. It is completely immaterial if 90 per cent of the parliament support that particular outcome. What matters is that there is a fully informed public debate in relation to a referendum question. While the parliament may be of largely one mind, that is not to say that the Australian public have the same mind or share the same views. Even if they do, that is not to say that, in the course of a referendum campaign, their mind may not be shifted from where it was before. So I am still struggling with the fact that this government is denying the opportunity for equal resources for the 'yes' and the 'no' cases for the proposed referendum.

But, if that is not bad enough, this motion contains a guillotine that would seek to terminate debate on the local government referendum bill at eight o'clock tonight. At eight o'clock tonight, it does not matter how many senators still wish to contribute on behalf of their constituents and their states. At eight o'clock tonight, it does not matter if there are questions that senators want to ask in the committee stage about the mechanics of this legislation and about the consultation process that led to the referendum question or if there are questions that they want to ask in relation to the wording of the referendum.
proposition. It does not matter if senators have those questions. It does not matter if senators still have contributions to make. This government wants to guillotine, this government wants to terminate debate, forthwith at eight o'clock tonight.

Senator Cormann: With the Greens.

Senator FIFIELD: It is a good point that Senator Cormann makes, because this motion cannot succeed with government members' support alone. It can only succeed if it has the support of the Australian Greens. The Australian Greens have spoken year after year, and we have all heard it time and again, about the importance of parliamentary scrutiny, about the importance of fair and democratic processes and about the importance of making sure that the public have their say and that the public are fully informed—whether it be in a referendum. So I would be amazed if the Australian Greens supported this guillotine motion—absolutely amazed—because it would be contrary to everything they have ever said in this place about the need for parliamentary scrutiny.

Senator Cormann: They may have done a deal!

Senator FIFIELD: Again Senator Cormann pre-empts me. Could there be a deal in place? I look innocently down the Notice Paper and see propositions such as Australian Greens being on the Senate Standing Committee of Privileges. I am not seeking for a second to join those two things together, because I would not think for a moment that the government would be fully informed about whether it be in a referendum. So I would be amazed if the Australian Greens supported this guillotine motion—absolutely amazed—because it would be contrary to everything they have ever said in this place about the need for parliamentary scrutiny.

Senator Cormann: They may have done a deal!
insurance lifetime cover legislation is a matter of great controversy that deserves scrutiny and that deserves debate in this place. There are a number of tax bills listed as well. I have no doubt that we are going to hear something from Senator Cormann about those over the next few days.

The government should rethink this motion. It does no credit to the government; it does no credit to the Australian Labor Party; and if it is passed by this chamber it will do no credit to the Australian Senate, because it will say that this government and a majority of senators in this place do not think that the Australian people deserve to have 55 pieces of legislation receive the scrutiny and debate that they are entitled to.

This is not a matter of government versus opposition, ultimately; this is a matter of how this chamber views itself and how this chamber views its role. Does this chamber see itself as a sausage factory? Does it see itself as a rubber stamp? Does it see itself as a mere convenience for the governing alliance of the day? Or does it see itself as a house of review: as a place where senators pause, read, debate and ask questions? The answer to that question will be in the votes of senators, here, today. I urge all senators to vote against this motion—to reject it and uphold the standards of this place.

Senator MILNE (Tasmania—Leader of the Australian Greens) (13:05): I rise to indicate that the Australian Greens have agreed to add extra sitting hours, including sitting on Friday, to try to get on with the job of delivering outcomes for all Australians. I have also to indicate that on several occasions we have indicated that we would prefer to have extra sitting weeks. We indicated last year and we indicated earlier this year that we would be prepared to have extra sitting weeks in order to deal with the legislation. However, that has not occurred. There is limited time left before the election, and I can tell you, Mr Acting Deputy President Marshall, right around Australia there are stakeholder groups who are holding their breath to make sure that legislation they have been promised for a very long time comes to pass. They are not going to tolerate a situation where the coalition is blocking important reforms that people have been waiting a very long time to achieve.

Can I indicate also that a lot of the faux outrage I have just heard from Senator Fifield needs to be sheeted straight home to the coalition because the coalition has refused to allow the noncontroversial bills to be dealt with in the way that they normally would be. They have deliberately organised a scenario in which we could not deal with the noncontroversial bills.

I am interested that Senator Macdonald should feel such outrage, because he has been on the phone three times asking that his bill—the bill that he wants through—goes in the guillotine. He has been saying, 'Please get it in the guillotine! Please get it in the guillotine!' and now he is all outraged because it is in the guillotine. I thought we had delivered for you, Senator Macdonald. I can tell you that the sugar research and development services bill is in the guillotine. Senator Fifield, your colleague desperately wanted it in the guillotine at your request. It is in the guillotine. Senator Fifield, your colleague desperately wanted it in the guillotine. What about your words about special scrutiny being denied to Senator Macdonald's bill? That is what he asked for. That is the truth of what goes on in here, Mr Deputy President. You know it as well as I do, and Senator Fifield knows it as well. His colleagues have been on the phone all week wanting their bills to be dealt with before the election, because there are a whole range of them. And that is the point that I am making: stakeholders around the country are desperate for this to occur.
Let me talk about Gonski for a moment. We have Senator Fifield here outraged that Gonski is going to be in this guillotine. Let me tell you that the Liberal shadow minister for education in Tasmania, Mr Ferguson—the colleague of Senator Abetz and Mr Tony Abbott—has been attacking the Tasmanian government for the delays in signing up to Gonski. 'It is an opportunity,' he said. He went on:

The Premier and the Minister for Education ought to sign up and give the benefits to Tasmanian schools.

Mr Ferguson is Mr Abbott's colleague. He is begging the Tasmanian government to sign up to Gonski at the same time as Mr Abbott is saying that if he is elected he will repeal this extra money. He will take it away from schools around Australia. So let's not hear this hypocrisy that is pouring out of the mouths of some people on the coalition side.

They know exactly what happens at the end of parliamentary periods. They know full well that they have filibustered for the last week. Let's go back and count the hours spent debating the EPBC water trigger bill. We have had filibustering for hours and hours. So I do not want to hear any more about cooperation and responsible behaviour. There has been no cooperation and no responsible behaviour in here.

Let me go through what is at risk if we do not get this package of 33 bills through. Firstly, as I said, there is Gonski. More money is going to go to our schools and there will be better education for our kids around the country. The coalition want to stand in the way of that.

Secondly, all around Australia people have been waiting for this package of aged-care reform bills. I can tell you that in the community there is a great deal of hope about aged-care reform, and the coalition is again standing in the way of getting that through before the election.

Thirdly—and this does not go nearly far enough; the Greens have been campaigning for a much better deal for Newstart recipients—in this package of bills there is support for single parents and welfare recipients by allowing single parents and Newstart recipients to earn more before their allowance is cut.

We also have legislation in here stopping children from being locked up in adult prisons—and that, in particular, is with regard to the removing of X-rays as a legal way of determining age, which had meant that Indonesian children were locked up in adult prisons in Australia. There are plenty of people around this country—and, no doubt, in Indonesia—watching what this parliament does about that piece of legislation before the election.

We also have the Australia Council bills. I can tell you from speaking to people in this constituency across Australia that they are desperate to get the Australia Council restructure through.

And I have not yet mentioned comprehensive protection for whistleblowers. This is something the government said it would do years ago. It did not do it. It is the last gasp of the government in terms of getting these bills through before the election, and I am determined that we are going to get them through, because out there in the Australian community people desperately want whistleblower legislation and aged-care reform. They want to see the Gonski reforms go through and they want to see the Australia Council reforms.

The government can answer for itself in terms of why it refused to have extra sitting weeks. Nevertheless, I am not prepared to go to an election not having dealt with these
critical reform issues, which people around the country are desperate for.

Senator Ian Macdonald interjecting—

Senator MILNE: Senator Macdonald, I remind you again: you are the one who did not want to go to the election without the sugar bill being dealt with. It is in the guillotine, as you requested because you know that people out in your constituency are interested in having that bill go through, as well.

Let me go to the non-controversial issue. The claim that some bills will get as little as 15 minutes is deceptive, because these bills are normally dealt with as non-controversial on Thursdays, with debate sometimes only being five to 10 minutes. The Senate last week, for example, passed 23 bills in less than two hours as non-controversial. That was last Thursday.

As I said, half of the 33 bills related to this particular motion—half!—would have been considered as non-controversial in a normal week. But Senator Fifield and his colleagues refused to allow that to happen. They should not stand in here and go on about time management when they refused to allow these bills, which would normally be referred to as non-controversial, to be dealt with as non-controversial. No, indeed—you did not want them to be dealt with as non-controversial because you wanted to make a fuss about dealing with them before the election in a time managed way. Let it be on the record: you stood in the way of half of this package of bills being dealt with as non-controversial, and you had some of your own members ringing up asking that bills of interest to them be dealt with in this time managed way.

That is exactly what has gone on here. So, yes, it would have been a good idea if the government had sat extra weeks last year. Yes, it would have been a good idea if we had sat extra weeks earlier this year; the Greens requested that to happen. Nevertheless, we are where we are. This is the last sitting week before the election, and I am determined that we will get Gonski through this parliament, we will get aged-care reforms through the parliament, we will end up with a reformed arts sector, and we will have legislation through the parliament to facilitate a referendum.

As for crocodile tears over the referendum, let's go back and see the number of people for the coalition who have already spoken on the local government referendum legislation, and see what else there is to add. What we need here is some truth. We need some honesty towards the Australian people about whether the coalition is going to campaign against the referendum. That is what people want to know. They want to know where they stand. We heard the dishonesty last week: 'The coalition will not stand in the way of the question being put.' That is not the same as saying to people whether or not you are going to support a yes vote in the referendum. If you want honesty, if you want decency, that is what the Australian people want to know—they want some straight answers, some straight talking, in this Senate about what the coalition is going to do. It is very clear—

Senator Ian Macdonald: Acting Deputy President, I rise on a point of order. Under standing order 193, all imputations of improper motives are disorderly. I have clearly said I will be supporting the local government referendum when it comes to pass, so Senator Milne suggesting that I am not being, or have not been being, clear is a reflection that I take exception to.

The ACTING DEPUTY PRESIDENT (Senator Marshall): Senator Macdonald, I did not hear Senator Milne refer to you at all, so there is no point of order.
Senator MILNE: Indeed, I am not referring to backbench members of the coalition; I am referring to the leadership of the coalition. Where are they on the question of a yes vote for the local government referendum? That is the point—

Opposition senators interjecting—

Senator MILNE: It is interesting when you start to touch sore points, because they cannot deal with it.

Opposition senators interjecting—

The ACTING DEPUTY PRESIDENT: Senators on my left will come to order.

Senator MILNE: They can interject all they like, but they will not answer the question: will the coalition campaign for a yes vote in the local government referendum? If any imputation was made, it was made in reference to the expert panel, which made certain recommendations as to how the referendum ought to be conducted.

However, the fact of the matter is we want the referendum to be put at the time of the election, and we need the legislation to go through to enable that to occur. Again, I can tell you I was at the Australian Local Government Association national conference last week, and the Local Government Association would be furious with the parliament if it behaved in such a manner that the legislation was not dealt with and therefore the referendum was unable to proceed.

Let's get back to the realities of the community. The community has certain expectations. The education community throughout Australia wants an answer, a definitive outcome, on Gonski. They would never forgive this parliament for getting up before an election and not providing this. Why does the coalition want to frustrate and stop Gonski going through? It is because after this election it will be the law, and anyone who does not like it will have to try to repeal it. That is why they are in this position—they do not want it to become the law because they would then be in the situation where they were the ones taking away money from education around Australia. The community is not going to think very kindly of a coalition, should they find themselves in government, trying to repeal Gonski. We are going to get it through.

Exactly the same goes for aged care. I want to see these reforms go through for aged care. I doubt that you would find a person on the street who did not want to see the package of aged-care reforms go through this parliament. We have an ageing population, and the community at large wants to see aged-care reform through this parliament, and so do I. We also want to see the relief to 38,000 small businesses, restaurants and cafes, who generate more than $29 billion per annum. The legislation before the parliament allows them to be exempted from having to print separate weekend menus.

We have heard all about getting rid of regulatory pressure. This is actually in this package of bills. The coalition, if they have their way, will not allow it to be treated as non-controversial. They would rather see it lapse than be dealt with. Well, I would not. I want to see it dealt with. I want to see all this legislation dealt with before the election so people around the country have a new set of legislative provisions that give them some certainty.

After the election, I can assure you that the Greens will be standing here strongly stopping the repeal of Gonski and stopping the repeal of any aged-care reforms or whistleblower legislation, because these are things that benefit the community in a very substantial way. Just because the Leader of...
the Opposition does not support more money going into Australian education through the Gonski reforms, that does not mean that the broader community shares that view. I am determined we will see this passed. I am convinced that the right thing to do here for the community is to deliver for them the legislation they have been waiting for for a considerable amount of time.

Senator XENOPHON (South Australia) (13:20): I will be brief. Can I indicate at the outset that I will be seeking that the question be divided on paragraphs (9) and (10). I am not sure whether it is appropriate that I move that now or I move it when the matter is to be put to a vote.

The ACTING DEPUTY PRESIDENT (Senator Marshall): I do not think it is a motion. I hear your request.

Senator XENOPHON: I can indicate, further to that, that I will be voting differently on paragraphs (9) and (10) than on paragraphs (1) to (8) of the government's motion. In other words, I indicate that I support the government's motion for extended sitting hours but I do not support the use of the guillotine. On that basis, I understand that that will require a different vote.

I think we do need additional hours but we do not need the guillotine. I share the views of my colleague Senator Madigan, who has expressed his concern about the use of the guillotine. I think it is worth mentioning what a former senator in this place said a number of years ago about the use of the guillotine:

… the government can manipulate the Senate and is doing so. The government can dishonour the processes of the Senate and is doing so. The government may try to treat the Senate as it does the House of Representatives—that is, as a rubber stamp—and convert this country to executive government, but the government will reap the whirlwind of that. Fortunately, it cannot do away with elections. It can do away with the proper role of the Senate by using the guillotine—that is, putting such a range of important legislation before the Senate and demanding that debate be ended and that votes be taken knowing that it is going to win those votes.

The same senator further commented:

We have a constitutional imperative for this house to be able to look at all legislation coming from the other place. I delight in that.

That was former Senator Bob Brown, on 28 November 2005.

I think it is worth mentioning that the Howard government—and I have looked at some statistics in relation to this and I hope that they are reasonably accurate in terms of my arithmetic—from 1996 to 2007 used the guillotine on 125 occasions. From 2008 to the end of 2012, the guillotine was used—and this is on bills declared urgent or considered under an allocation of time—on 133 occasions. That is about double the rate. I think it begs some important questions about a better way of managing business to ensure that we have adequate and fulsome debate on legislation and appropriate scrutiny. That is our job here in this place. My concern is that we will not do that.

There are important pieces of legislation that will be coming up. There is the Australian Education Bill, as Senator Milne has pointed out, and the local government referendum proposal. I can indicate that I support the amendment to the Constitution, but I am dismayed that the funding arrangement is going to skew the debate in a way that I think will give strength to those who oppose the constitutional referendum, because of the way that the funding has been structured. That is very unfortunate, but I still support the recognition of local government in our Constitution. There is aged-care legislation, legislation on the childcare sector and antidumping measures. We have already lost something like 140,000...
jobs in the manufacturing sector in this country since 2008, since the GFC. That deserves more time. There is the charities bill, which has huge implications for the charity sector. It is legislation that I support, but these are important matters. There is crimes legislation on witness protection, the private health insurance bill and a whole range of other bills that I do not think we will deal with adequately. That is why I support additional hours but I do not support what is being proposed here to guillotine this debate.

This is not the way that the Senate should operate. I encourage the parties to sit together to say: 'Do we sit an extra day, two days or three days to try and get legislation through in such a way that we can adequately debate it?' I remember not so long ago, a year or two ago, we dealt with very important and contentious family legislation that dealt with issues of custody and issues of domestic violence. That was very significant legislation, but the committee stage was truncated to, I think, just a few minutes. There was no adequate way to deal with a whole range of amendments, and I do not think that is adequate. I think the Australian people deserve better.

I seek that the question be divided on paragraphs (9) and (10). Perhaps, once the heat of an impending election campaign is over, once there is a new parliament, whatever the result may be, we can actually sit down, all parties and crossbenchers as well, to ensure that this does not happen again, because this is not the way that the Senate should operate.

The ACTING DEPUTY PRESIDENT: Senator Xenophon has asked that the question be put separately. That is a matter for the discretion of the chair. Given that you have indicated that you intend to vote differently, I will put the question separately.

Just to advise the Senate: I will be putting the question of paragraphs (1) to (8) separately to paragraphs (9) and (10).

Senator Ian Macdonald: On a point of order, Mr Acting Deputy President: I would have hoped that Senator Xenophon might have moved an amendment to effect what he has spoken of—that is, to extend the hours but not guillotine—and if he does not—

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

Senator Ian Macdonald: If he does not, I am just indicating to the Senate that I will move the amendment, so you will not have to put it separately.

The ACTING DEPUTY PRESIDENT: You know the process for putting amendments, Senator Macdonald, and would expect that to be complied with. I am simply responding to the request that Senator Xenophon made of me, and I have advised the Senate accordingly.

Senator Cash (Western Australia) (13:25): I too rise to support the comments made by the Manager of Opposition Business in the Senate, Senator Fifield, in relation to this motion to vary the hours of meeting and the routine of business. I listened to the Manager of Government Business in the Senate when she was giving her speech in relation to the motion and, in particular, when the Manager of Government Business said, 'We are here to get the job done,' because those words reminded me so much of Graham Richardson when he said, in relation to the Labor Party, 'whatever it takes'. He said, 'Whatever it takes to get elected to government, we'll do it.' Senator Collins showed the true reason that she is here today moving this motion to vary the hours and the routine of business in the Senate when she said, 'We are here to get the job done.'
The opposition, as we always do when it comes to motions of this nature, come to this matter bearing our usual reasonableness. It was only last week that the government came to the opposition and asked us to support a motion to vary the hours and the routine of business, and the opposition willingly did so. That was to enable certain senators to give their valedictories. As is the custom in this place, we will agree to such motions.

But for the government to come in here today with a motion that not only varies the hours of meeting and the routine of business but completely truncates debate in relation to not one, not two, not 10, not 20, not 30, not 40, but in excess of 50 pieces of legislation without a doubt not only confirms the contempt in which this government holds the people of Australia but certainly confirms the contempt which those on the other side have for the Senate as a house of review. In relation to Senator Milne's comment when she said, 'Stakeholders around the country are waiting with bated breath for certain pieces of legislation to be passed,' the only stakeholders around the country that are waiting with bated breath for legislation to be passed in this place are the union movement. This motion confirms to all Australians that not only have the Labor Party lost complete control of the legislative agenda in this place but they take their instructions from the union movement. Let me tell you why, in relation to two bills that are going to be debated on Thursday, the Migration Amendment (Temporary Sponsored Visas) Bill 2013 and the Migration Amendment (Offshore Resources Activity) Bill 2013.

Despite the Office of Best Practice Regulation advising the government, in relation to schedule 2 of the Migration Amendment (Temporary Sponsored Visas) Bill 2013, that it should undertake a regulatory impact statement, the government failed to do this. In fact, not only did the government fail to do this but Minister O'Connor has made many promises to his mates in the union, and one mate in particular, that he will ram this legislation through not only the other place but this place as well. He completely disregarded the advice from his own Office of Best Practice Regulation to develop a regulatory impact statement for schedule 2 of that particular bill, and he wrote off to the Prime Minister and said: 'There are exceptional circumstances surrounding why my office should not have to develop a regulatory impact statement for the labour market testing provisions of this bill.' And guess what the Prime Minister did? I bet no-one in this place can guess what the Prime Minister did. Well, it is pretty obvious, isn't it? The Prime Minister granted an exemption based on exceptional circumstances. When the opposition and industry asked what those exceptional circumstances were, do you know what they were told? They were told that the government did not need to tell the people of Australia what those are exceptional circumstances are.

If this motion goes through, we will have but 15 whole minutes, and that includes divisions, to debate a piece of legislation for which the government has failed to follow its Office of Best Practice Regulation advice, has failed to develop a regulatory impact statement around the impact of labour market testing and has failed to consult with industry. Now the legislation is brought to this place on a promise to Minister O'Connor's union mates that he will deliver to them and completely change the nature of the 457 visa regime in this country. So, when Senator Collins stands up and says that she is bringing this motion today because the government needs to facilitate the passage of legislation through this place, quite frankly that will be a blatant misrepresentation of the...
government's real reasons for this motion today.

On Monday, we will be ramming through this place, after the dinner break, seven pieces of legislation, five of them in relation to superannuation. On Tuesday, if this motion passes, the Senate will be ramming through this place 11 pieces of legislation, with little or no debate on any of them. On Wednesday, the Senate will be ramming through nine pieces of legislation, including the bills I have just referred to in relation to the changes to the 457 visa regime. On Thursday, the Senate will be ramming through 10 pieces of legislation, again with little to no debate on any piece of legislation. On Friday, the additional day of sitting—lo and behold!—the Senate is ramming through 16 pieces of legislation, again with little or no debate.

Regarding Senator Milne's comments that a number of these pieces of legislation should have been in the non-controversial part of the legislative program, guess what, Senator Milne? The opposition was never approached about whether any of these 23 pieces of legislation should be placed in the non-controversial part of the legislative program. Perhaps if the government had come to us, we may have been able to consider that, but the government did not come to us, because, at the behest of their union mates, they have, quite literally, put together a list of legislation which they need to ram through in the dying days of the 43rd Parliament.

What this motion, and in particular a number of pieces of legislation within the motion, shows is that this is a government that is controlled by the excessive power and influence that the union movement has over Ms Gillard. Clearly, the unions have been promised by Ms Gillard that the legislative agenda that the unions set will be completed within this parliamentary sitting. She clearly hopes that, if she can ram this legislation through this week, on Friday she may still be the Prime Minister of this country. That is no way to govern Australia, but I think Australians know, as we do on this side, that the Labor government gave up governing Australia a very long time ago. They have been at war with the Greens and they have been at war with themselves. That is not governing in the interests of the nation.

When considering this motion, one thing that senators should never forget is that the government of the day sets the legislative agenda. It is the government of the day that sets the number of sitting days for a particular sitting period. If you compare the number of days and weeks that this place sat under the former Howard government with the number of days and weeks that this place has sat under the former Rudd and current Gillard governments, you can see that there is a fundamental difference between the two sitting calendars. Maybe that is an indication that the former Howard government was not afraid of scrutiny. The former Howard government was not afraid of bringing bills to the parliament and setting aside an appropriate number of sitting days and weeks for those bills to be properly scrutinised.

But we all know that those on the other side cannot wait to get out of this place. They cannot wait until 2.20 on Friday, when, once and for all, this place will rise until the federal election. Despite the Prime Minister's weasel words in relation to the new paradigm—in relation to opening the windows and letting the light in; in relation to transparency—we know that the only reason this motion has been brought before the Senate is to ensure there is little to no scrutiny of the legislation set out in the motion.
If the guillotine motion, as this motion ultimately is, is used in a legitimate manner as a business management tool, as is contemplated—because there is a standing order that contemplates the guillotining of debate, standing order 142—and if it is used properly, as it was last week when we decided to vary the hours of business, it will not be met with rancour; it will not be met with acrimony. But when those on the other side use the guillotine, as they do by this motion, as nothing more and nothing less than a political tool to deliberately prevent senators expressing their views on pieces of legislation or defeat the proper purposes of this house of review to sit down and, in an open manner, critically review the legislation before it, then you know that this is nothing more and nothing less than a political tool and that this is a government that does not want proper scrutiny of its legislation.

As Senator Fifield reminded senators, this bill will only go through if it gets the support of either the opposition or the Greens. The opposition made it very clear that, in the interests of good government, we will not be supporting a guillotine motion. Let us now consider, as Senator Fifield did, what we think the Greens, under their current leader, Senator Milne, may do on this motion—bearing in mind what Senator Brown, the former leader of the Australian Greens, used to say when the Howard government sought to introduce a guillotine motion. We know—because Hansard records it—that, during the time of the Howard government, the Greens constantly rallied against the use of the guillotine to prevent debate in this chamber. The Hansard is quite literally littered with the feigned fury and the verbal indignation of the Australian Greens in objecting to the use of the guillotine or to changes in the committee system. I think we can all recall that Senator Bob Brown, when he was in this place, was a regular speaker, regularly jumping up to put the Australian Greens' point of view on how disgraceful it was that the former Howard government would even think to use a guillotine in this place.

And then of course we have Senator Milne, the current Leader of the Australian Greens, who, lo and behold, seems to have had a transformation in her views on the need to review and scrutinise legislation. In the Senate on 14 August 2006 Senator Milne, as per usual, was haranguing the Senate on the importance of, lo and behold, scrutinising legislation. And this is what the current Leader of the Australian Greens said: The Australian people deserve a house of review. A house of review means appropriate scrutiny of legislation and appropriate scrutiny of governments.

Well, the only thing that you can say to Senator Milne's speech earlier on in the Senate today, which is in complete contradiction to the weasel words that the senator used in 2006 when the Howard government was in power, is that we appear to have had a transformation. Since the Greens sealed their grubby, duplicitous little deal with the Labor Party, they have sold out every principle—if you can actually say that the Australian Greens ever had principles—that they ever had, because they consistently supported motions to support the guillotine in this place.

It is quite obvious that what the Greens do on the floor of the Senate when those division bells ring is perhaps not quite consistent with the words that come out of their mouths when they want people to think that they are going to do a certain thing in this place. When it comes to hypocrisy and duplicity, the Australian Greens really do win first prize. We all know what we are talking about here. We are talking about Mr Graeme Wood and the hypocrisy and the duplicity of the Australian Greens when it comes to the taking of political donations.
This is the party that will do anything for money. This is the party that will stand up in this place, as they did under the former Howard government when they were talking about guillotines—

Senator Milne: Deputy President, I raise a point of order. I would ask that Senator Cash withdraw the defamatory remark she just made—that the Australian Greens would do anything for money. That is offensive to all senators and I ask her to withdraw it.

The ACTING DEPUTY PRESIDENT (Senator Marshall): I am not sure that that technically is a breach of the standing orders. However, I would encourage all senators to be temperate in their language.

Senator CASH: It does hurt when you get caught out being hypocritical. It does hurt. Senator Milne jumps up to take a point of order in relation to the fact that the Greens are the political party on record as accepting the largest political donation ever made in the Australia's history. Let us say that again in case they forget: it was the largest political donation made in Australia's history—a donation of not half a million dollars, not $1 million, not $1.5 million but $1.6 million. So, when the Greens want to stand up in this place and pontificate about the actions of those on this side of the chamber, sometimes a little bit of humility is all that is needed, because each time the Greens stand up and pontificate, we will remind them of what they said in 2006 as to the guillotine under the Howard government.

What they are doing to do is undertaking a complete transformation, and we all know why: because of their grubby little duplicitous deal with the Australian Labor Party. When the Australian Greens jump up, as they often do, to talk about hypocrisy and duplicity in relation to political donations, we will take the opportunity to remind them that they speaketh with forked tongue. Just to remind them—in case they have forgotten—they are the political party to accept the largest donation in Australia's political history, a donation of $1.6 million from Mr Graham Wood. Let us see what they accept this time round. I know that Senator Hanson-Young currently has an advertisement going around saying that she had to raise $50,000 overnight in relation to our campaign. Mr Adam Bandt also has a campaign going around saying that he wants a few hundred thousand dollars. For a party that says that the acceptance of donations for political campaigns is not on, that to me is hypocrisy, hypocrisy, hypocrisy.

And that is what we are seeing from the Greens today in relation to this motion. When the divisions bell go, the Greens will stay on that side of the chamber. What they said during the former Howard government—and it is on record; Hansard is littered with examples of the Greens jumping up and saying, 'This is a house of review; don't forget that.' All of that will go out the window as they sit with the Australian Labor Party and vote to guillotine 55 pieces of legislation, pieces of legislation that should be aired. This is a failure of due process. (Time expired)

Senator JACINTA COLLINS (Victoria—Manager of Government Business in the Senate and Parliamentary Secretary for School Education and Workplace Relations) (13:46): I move:

That the question now be put.

The PRESIDENT: The question is that the question now be put.

The Senate divided. [13:50]

(The President—Senator Hogg)

Ayes .....................36
Noes .....................32
Majority..................4

CHAMBER
Senator Ian Macdonald: Mr President, on a point of order: I have given notice of an amendment that I required to be put. I appreciate that I may not be able to speak to it, because of the gag, but I draw your attention to the fact that an amendment has been flagged and handed in.

The PRESIDENT: I understand that I have no option now but to put the motion. The question that was considered by the chair was that the motion be now put. That was carried, and therefore I now have to put the question that is before the chair. The question has been asked to be divided.

Senator Ian Macdonald: My point is that the question before the chair should be the motion of which I have given notice and handed a written copy in. I cannot believe that the standing orders would allow for an important motion like this, and an important amendment, not to be able to be voted on by the chamber. Surely the government would also want the amendment to be dealt with before the motion is put.

The PRESIDENT: I have ruled on the matter. The matter—

Senator Ian Macdonald: Mr President, would you accept a motion that so much of standing orders should be set aside as would permit me—

The PRESIDENT: No, for the exact same reason. The question was that the question now be put. There was a request that the question be divided upon and that is being abided by. So I will now put the question, which is that paragraphs 9 and 10 of the motion relating to the hours and routine of business for this week be agreed to.

The Senate divided [13:56]

The President—Senator Hogg

Ayes ....................37
Noes ....................33
Majority............4
### AYES

- Bilyk, CL
- Brown, CL (teller)
- Carr, KJ
- Collins, JMA
- Crossin, P
- Farrell, D
- Furner, ML
- Hanson-Young, SC
- Lines, S
- Ludwig, JW
- Marshall, GM
- McLucas, J
- Moore, CM
- Rhiannon, L
- Singh, LM
- Sterle, G
- Thorp, LE
- Waters, LJ
- Wright, PL

### NOES

- Abetz, E
- Bernardi, C
- Boswell, RLD
- Bushby, DC
- Colbeck, R
- Edwards, S
- Fawcett, DJ
- Fifield, MP
- Humphries, G
- Joyce, B
- Macdonald, ID
- Mason, B
- Nash, F
- Payne, MA
- Ryan, SM
- Smith, D
- Xenophon, N

### PAIRS

- Feeney, D
- Pratt, LC
- Wong, P

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**The Senate Divided. [14:00]**

(The President—Senator Hogg)

Ayes .................37
Noes .................33
Majority.............4

### AYES

- Bilyk, CL
- Brown, CL (teller)
- Carr, KJ
- Collins, JMA
- Crossin, P
- Farrell, D
- Furner, ML
- Hanson-Young, SC
- Lines, S
- Ludwig, JW
- Marshall, GM
- McLucas, J
- Moore, CM
- Rhiannon, L
- Singh, LM
- Sterle, G
- Thorp, LE
- Waters, LJ
- Wright, PL

### NOES

- Abetz, E
- Bernardi, C
- Boswell, RLD
- Bushby, DC
- Colbeck, R
- Edwards, S
- Fawcett, DJ
- Fifield, MP
- Humphries, G
- Joyce, B
- Macdonald, ID
- Mason, B
- Nash, F
- Payne, MA
- Ryan, SM
- Smith, D
- Xenophon, N

### PAIRS

- Feeney, D
- Pratt, LC
- Wong, P

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**Question agreed to.**

**The PRESIDENT:** The question is that paragraphs 1 to 8 of the motion relating to the hours and routine of business for this week be agreed to.
Question agreed to.

Senator IAN MACDONALD (Queensland) (14:02): Pursuant to standing order 190, I seek leave to make a personal explanation in relation to a matter in which I was grossly misquoted and misinterpreted by the Leader of the Greens in the last debate.

The PRESIDENT: That is normally done at 3.30 pm. I am sure that in accordance with the practice in this place that will be accepted at 3.30.

Leave not granted.

QUESTIONS WITHOUT NOTICE

Senate

Senator ABETZ (Tasmania—Leader of the Opposition in the Senate) (14:03): My question is to the Minister representing the Prime Minister, Senator Conroy. I refer to the Senate's constitutional role as a house of review and, to use the minister's own words, as a chamber of accountability and scrutiny. I also refer to numerous statements by Senator Milne and other Greens senators about the importance of the Senate in diligently reviewing legislation and by the Prime Minister herself when she promised a new era of accountability and to 'let the sun shine in'. Will the minister confirm that the government and the Greens propose to guillotine an unprecedented 55 bills through the Senate this week? Will he also confirm that this will bring the total number of bills that the government and the Greens have guillotined through the Senate in the last three years to 216, compared with 32 in three years in which the coalition held a majority in the Senate? How does the minister defend this scandalous abuse of process?

Senator CONROY (Victoria—Leader of the Government in the Senate, Minister for Broadband, Communications and the Digital Economy and Minister Assisting the Prime Minister on Digital Productivity) (14:04): I start by not having a short memory. I sat on that side of the chamber during the debate on the privatisation of Telstra. Notwithstanding the promises Senator Joyce made to the Queensland public when he promised he would vote against it and voted for it in the end, what we saw, even during the committee stage, was that your minister was so inept and feeble that you actually orchestrated your own Dorothy Dix speakers to take up time during the guillotine of the committee stage of the privatisation of Telstra. Absolutely disgraceful: you were so afraid of scrutiny that your minister was unable to answer the questions in this chamber that you organised people using a guillotine in that bill.

Then we had WorkChoices, the most vicious anti-family working bill that you have ever seen put before the Australian public—rammed through, I am reminded by good Senator Collins, both houses in one day. You are shameless to stand here and pretend you have anything other than contempt for this chamber. (Time expired)

Senator ABETZ (Tasmania—Leader of the Opposition in the Senate) (14:06): Mr President, I ask a supplementary question. Can the minister assure the Senate that Labor has done no deals with its Greens alliance partners to get their support for this unprecedented use of the guillotine? If the government has done deals or made arrangements or come to understandings, what are those deals, arrangements or understandings?

Senator CONROY (Victoria—Leader of the Government in the Senate, Minister for Broadband, Communications and the Digital Economy and Minister Assisting the Prime Minister on Digital Productivity) (14:07): A majority, as was just demonstrated in this chamber, agreed to bring forward and ensure, with a time management motion, that
we passed the legislation. There are some in this chamber who are interested in passing the budget. There are some who are interested in passing the education reforms that this country so desperately needs. We know that those opposite have no interest in it. I sat and listened during the morning to filibustering from Senator Fifield, filibustering from other members—

Senator Brandis: I raise a point of order on direct relevance. The minister was asked, as the first supplementary, a specific question: was the Greens' support for the guillotine motion secured by a deal, and if so, what were the terms of the deal? The political rhetoric in which Senator Conroy is now engaged has no bearing whatsoever on the question he was asked.

Senator Jacinta Collins: On the point of order, Senator Conroy is being directly relevant to the question. The opposition here talks about deals. Well, the deal is to progress legislation.

The President: There is no point of order. The minister has 20 seconds remaining.

Senator Conroy: Those opposite have no genuine interest in progressing this legislation, but a majority in this chamber do. A majority in this chamber want to see Australian children get the best possible education with the best possible support in the classrooms. There is a majority in this—

(Time expired)

Tasmanian Wilderness World Heritage Area

Senator Milne: My question is to the minister representing the Minister for Sustainability, Environment, Water, Population and Communities, Minister Ludwig. Is the minister aware of the wonderful news which has just come through that UNESCO's World Heritage Committee has listed an extension to Tasmania's Wilderness World Heritage Area of some 170,000 hectares following 30 years of campaigning from conservationists in Tasmania and around the world to protect the state's tall forests? If so, can the minister tell
me what undertaking the government made to the UNESCO World Heritage Committee regarding further assessment of the area for its cultural values?

Senator CONROY (Victoria—Leader of the Government in the Senate, Minister for Broadband, Communications and the Digital Economy and Minister Assisting the Prime Minister on Digital Productivity) (14:11): Senator Ludwig looks after agricultural matters. I represent Environment on behalf of Minister Burke, so I am happy to take the question. I thank the senator for her question. Today the 37th World Heritage Committee, at its meeting in Phnom Penh, Cambodia, accepted the Australian government proposal to add more than 170,000 hectares to the World Heritage List protecting forest areas in the Upper Florentine and areas within the Styx, Huon, Picton and Counsel River Valleys. This decision means some of Tasmania's most spectacular and precious areas of native forest have been given the highest level of environmental protection. There are many sites of deep cultural significance within the World Heritage boundary.

The Australian government is continuing its consultation with Indigenous communities in Tasmania to ensure these cultural values are considered at a future meeting of the World Heritage Committee. Work has begun on a study of the outstanding universal cultural values of the Tasmanian Wilderness World Heritage Area, including those areas within the new boundary. This extension to the Tasmanian Wilderness World Heritage Area means areas of exceptional beauty, particularly its majestic stands of tall eucalypt forest, glacial landforms and alpine and subalpine environments are now afforded the highest level of protection. The boundary extension will significantly enhance the wet eucalypt forests within the property and will enhance the connection between its tall eucalypt forest and the rainforest. Additional important habitat for rare and threatened species such as the endangered wedge-tailed eagle and the Tasmanian devil are also included in the boundary extension. The great western tiers— (Time expired)

Senator MILNE (Tasmania—Leader of the Australian Greens) (14:15): I further ask the minister, given this very good news for Tasmania, what action will the minister take to ensure that the Tasmanian Wilderness World Heritage Area is not opened to logging by any future state or federal government?

Senator CONROY (Victoria—Leader of the Government in the Senate, Minister for Broadband, Communications and the Digital Economy and Minister Assisting the Prime Minister on Digital Productivity) (14:14): The new boundary also adds to the representation of the glacial and other features in the World Heritage area, including landforms, which contain evidence of glacial movements millions of years ago along the Walls of Jerusalem and the central plateau. On 31 January 2013 Australia requested an extension of the boundary of the Tasmanian Wilderness World Heritage Area and this request, as we now know, has been accepted. As to the specific issue that Senator Milne raised, I am happy to take that on notice and see whether there is any further information that the minister can provide.

Senator MILNE (Tasmania—Leader of the Australian Greens) (14:15): Mr President, I ask a second supplementary question. I would appreciate knowing what we are going to do to stop logging by any future state or federal governments. What actions will the government be taking to ensure that the integrity of the boundaries of the Tasmanian Wilderness World Heritage
Area is not threatened by future federal governments?

Senator CONROY (Victoria—Leader of the Government in the Senate, Minister for Broadband, Communications and the Digital Economy and Minister Assisting the Prime Minister on Digital Productivity) (14:15):
The simple solution is to ensure the re-election of a Labor government, rather than those environmental vandals on that side, if you want to give genuine protection to this area. Those opposite have again started off by saying no; they have started off by opposing this. As you can see from the interjections of those opposite, they have no commitment whatsoever to this decision or to the maintenance and support of this decision. The Australian public should be under no illusion that the environmental and economic vandals on that side of the chamber have changed. They will continue to put the environment in Tasmania at risk, and every Australian should bear that in mind in the election in September.

Superannuation

Senator MARSHALL (Victoria) (14:16):
My question is to Minister representing the Treasurer, Senator Wong. Can the minister outline to the Senate what steps the government has taken to enhance the superannuation system and what this will mean for the retirement savings of working Australians?

Senator WONG (South Australia—Deputy Leader of the Government in the Senate and Minister for Finance and Deregulation) (14:17):
Thank you to Senator Marshall for the question. Like other Labor senators he is a strong supporter of Australia's superannuation system. Of course, remember that the superannuation system, the superannuation guarantee for working people, was built by the Labor Party and the labour movement that will ensure it will be built upon and grown.

What we will see next week is the start of the gradual increase in the SGC rate from nine to 12 per cent. This will be the first step in a significant increase over a number of years to the superannuation savings of working people. From 1 July, 8.4 million Australians will have the contributions paid into their superannuation accounts increased to 9.25 per cent, and the rate will continue to increase each year until it reaches 12 per cent on 1 July 2019. This will mean a substantial increase to the retirement savings of working people. There are few things more steeped in Labor values than the superannuation system. Labor built it over the opposition of those opposite and those who preceded them, and it is only Labor that will deliver the strengthening of the superannuation system for working Australians.

Let us remember what the position of the opposition is. The opposition leader is on record as describing his position on superannuation as: 'We have always as a coalition been against compulsory superannuation increases.' That is very clear articulation of the values of Mr Abbott and the coalition, who are opposed to increases in superannuation and opposed to increases in the retirement savings of working Australians. (Time expired)

Senator MARSHALL (Victoria) (14:19):
Mr President, I ask a supplementary question. I thank the minister for that answer. Can the minister provide the Senate with information on the gains for workers across different industries from the increase to the superannuation guarantee?

Senator WONG (South Australia—Deputy Leader of the Government in the Senate and Minister for Finance and Deregulation) (14:19):
I thank Senator Marshall for his supplementary question. As
I said before, millions of Australians will benefit from the government's superannuation reforms. We have new analysis, which was recently released by the Treasurer and Mr Shorten, which shows the significant gains from the increase to the superannuation guarantee across various sectors. I will go through some of them as requested. For example, the increase in superannuation savings for a 30-year-old employee who retires at age 67 and earns average full-time wages for their occupation will be around $75,000 for childcare employees, around $124,000 for construction and mining labourers and electricians, around $82,000 for hospitality workers, around $66,000 for hairdressers and around $79,000 for receptionists. Of course, the pool of national savings will increase by more than half a billion dollars by 2037 under the government's policies.

Senator MARSHALL (Victoria) (14:20): Mr President, I ask a second supplementary question. I thank the minister for her answer. Can the minister outline to the Senate the benefits of the superannuation tax cut provided by the government's low-income superannuation contribution, and could the minister break this down by sector?

Senator WONG (South Australia—Deputy Leader of the Government in the Senate and Minister for Finance and Deregulation) (14:20): The government's low-income superannuation contribution will remove the tax paid on contributions for low-income Australians. As from 1 July last year it will provide 3.6 million workers, including 2.1 million women, with a tax cut on their superannuation. I will give some analysis of the effect of the tax cut on people's compulsory contributions for 2012-13: around $338 for checkout operators, around $457 for childcare employees working four days a week, around $360 for receptionists working three days a week, and I could go on. All of these people would face a tax increase were the coalition to win government; every low-income Australian would get a tax increase on their super. It shows what a risk to working Australians the opposition would be.

Superannuation

Senator CORMANN (Western Australia) (14:21): My question is to the Minister representing the Prime Minister, Senator Conroy. Why is the Gillard government not prepared to have a proper debate in the Senate about the Superannuation Legislation Amendment (Service Providers and Other Governance Measures) Bill 2013? In particular, why is the Gillard government so scared to have a proper debate on the merits of our constructive proposal to ensure that at least one third of the directors on union dominated industry super fund boards are independent—a proposal which was of course supported at first in the House of Representatives, and which is completely in line with Labor's own Cooper review recommendations and in line with our coalition policy to improve corporate governance for people's superannuation savings so that their retirement savings are both maximised and safe? Why is the government so scared to have a proper debate about this bill?

Senator CONROY (Victoria—Leader of the Government in the Senate, Minister for Broadband, Communications and the Digital Economy and Minister Assisting the Prime Minister on Digital Productivity) (14:22): It is always good to see that, at the end of the day, those opposite have form on the issue of superannuation. For those who have long memories, and possibly only Senator Faulkner or Senator Boswell were here when it was first debated—I could be being unkind
to both of them when I say that—those opposite opposed superannuation lock, stock and barrel. At every possible turn, they have sought to strip back the benefits for ordinary Australians in their superannuation accounts. In the lead-up to the 1996 election, those opposite promised to keep the increase in superannuation that had been promised by the Keating government and quickly, after the election, they abandoned that promise. It became one of those fabled non-core promises. We all know that the opposition leader is again intent, when it comes to superannuation—

Senator Cormann: Mr President, I rise on a point of order in relation to the requirement for the minister to be directly relevant. He has been going for more than a minute and he has not got anywhere near the question, which was about why the government is not prepared to have a proper debate in relation to a specific bill that is before the Senate and, more specifically, in relation to the corporate governance arrangements for superannuation funds. That was a very specific question.

The PRESIDENT: I believe the minister is addressing the question. The minister still has 56 seconds. I am listening carefully to the minister's answer.

Senator CONROY: The government is not afraid to debate this bill. I am not sure I can debate the merits of the bill in question time right now as it is before the chamber, but I am more than happy to stand here and expose those opposite for their hypocrisy when it comes to superannuation, because the Treasurer and the minister for superannuation recently released new analysis which shows how much workers in particular occupations stand to lose under Tony Abbott. I would happily debate this—

The PRESIDENT: Order! You need to refer to people in the other place by their correct title.

Senator CONROY: My apologies—Mr Abbott. I will happily debate this now and every day between now and the election. Every Australian worker with superannuation knows those opposite have form. They are not just about delaying the increase; they are going to scrap it completely—(Time expired)

Senator CORMANN (Western Australia) (14:25): Mr President, given the minister did not go anywhere near answering the question, I have a supplementary question. Given the bill lingered in the House of Representatives for nearly six months before the House spent 54 minutes to deal with just one set of constructive amendments to improve corporate governance for super, with the House supporting our amendment at first before Labor forced a backdown at the behest of the unions, why does the government think it is appropriate to give the Senate less than an hour to deal with this and another three super bills it has attached to it?

Senator CONROY (Victoria—Leader of the Government in the Senate, Minister for Broadband, Communications and the Digital Economy and Minister Assisting the Prime Minister on Digital Productivity) (14:26): We are ensuring that this bill will not linger in this chamber, because a 30-year-old childcare worker stands to lose around $75,000, a hairdresser will lose around $66,000, a hospitality worker will lose around $82,000, and an electrician will lose around $124,000 under the superannuation policy of those opposite. Mr Abbott and the Liberal Party cannot be trusted, because this is what Mr Abbott has said about superannuation in the past. He said:

Compulsory superannuation is one of the biggest con jobs ever foisted by government on the Australian people.
He said that on 25 September 1995 in the parliament, and those opposite still hold that position. *(Time expired)*

**Senator CORMANN** (Western Australia) (14:27): Mr President, given the minister again did not go anywhere near the question, I will ask a further supplementary question. Given Labor's complex MySuper measures are due to come into effect in just a week from now, why has the Gillard government let things drift in the House of Representatives for months only to now ram things through without the proper scrutiny that they deserve here in the Senate?

**Senator CONROY** (Victoria—Leader of the Government in the Senate, Minister for Broadband, Communications and the Digital Economy and Minister Assisting the Prime Minister on Digital Productivity) (14:27): I reiterate what I said before. We have no intention of letting this bill drift. We intend to pass this bill by the end of the week. It just goes to show what a glass jaw those opposite have on this issue, because just last year Mr Abbott said the coalition has always been against compulsory superannuation. My apologies—it was actually on 23 March 2012, in a press conference, when Mr Abbott said the coalition has always been against compulsory superannuation. We have had a circumstance where, first of all, we had a housing minister, unlike those opposite—

**Senator McLUCAS** (Queensland—Minister for Human Services) (14:29): I thank the senator for the question. I think our government has had a very strong record when it comes to housing policy since we have been in government. We have had a circumstance where, first of all, we had a housing minister, unlike those opposite—

**Senator Ludlam:** Mr President, I rise on a point of order going to relevance: with respect to the minister, I have not asked about the legacy or the record; I asked about future policy taking us to 2020. I ask you to draw the minister to the actual question I asked.

**The PRESIDENT:** The minister has been going for just under 22 seconds. I think the minister is answering the question. I will listen closely to the minister's answer. There is no point of order at this stage.

**Senator McLUCAS:** Our government remains committed to the 2020 targets of our white paper on homelessness of halving the overall rate of homelessness and providing supported accommodation to all rough sleepers who seek it. The ABS census data released last November shows that the rate of people sleeping rough fell by 13.5 per cent between 2006 and 2011. The rate of Indigenous homelessness has fallen by 14.5 per cent. However, the census headline figure showing an increase in the rate of homelessness of eight per cent is disappointing. The increase reflects the
challenge and the complexity of homelessness.

However, more people are getting the help that they need. Specialist homelessness services provide important supports, in the form of accommodation and other assistance, to vulnerable people in times of crisis. We are committed to the continuation of current service levels and would like to reaffirm to the services sector and all stakeholders and clients that the Commonwealth's level of investment, as well as our commitment to quality and transparency, will continue. That is why we have committed up to $159 million over the next year, to be matched by the states and territories, toward a transitional agreement to continue to tackle homelessness. However, currently only four states—Victoria, South Australia, New South Wales and Tasmania—have committed funding to that project.

**Senator LUDLAM** (Western Australia) (14:32): Mr President, I ask a supplementary question. Minister, as you have acknowledged, on any given night in Australia almost 7,000 people are sleeping rough. Has the government costed what it would take to build a permanent dwelling for every rough sleeper in Australia?

**Senator McLUCAS** (Queensland—Minister for Human Services) (14:32): I do not have data about whether we have costed that. But the point of your question—are we going to build accommodation for every person who is sleeping rough—does not actually show an understanding of the complexity of homelessness. The complexity of homelessness means that there are people in different circumstances at any point in time who have taken different pathways to sleeping rough. Simply to say that we are going to build accommodation, just like that, does not answer the question. We need an array of services that go from short-term services to long-term permanent housing, which we have done a lot of since we have been in government.

**Senator LUDLAM** (Western Australia) (14:33): Mr President, I ask a further supplementary question. The prefabricated structural insulated and modular housing industry offers great promise to significantly reduce housing costs and construction times and to establish a sustainable and affordable Australian housing industry. Has the government investigated the reduction in time and cost that this industry could offer to get people off the street and into permanent and high-quality housing?

**Senator McLUCAS** (Queensland—Minister for Human Services) (14:33): You would understand that, as the representative minister, I do not have the level of detail that you are asking for. If there is further information, though, I am happy to get that for you. Your question does not acknowledge the answer I gave you, that these are locational questions. They vary around the country from time to time. There is not a simple answer to homelessness. We have to be responsive in many, many different ways. Relocatable homes may be part of the answer. I will take that on notice.

**DisabilityCare Australia**

**Senator LINES** (Western Australia) (14:34): My question is to the Minister representing the Minister for Disability Reform, Senator McLucas. Can the minister update the Senate on the progress of DisabilityCare Australia?

**Senator McLUCAS** (Queensland—Minister for Human Services) (14:34): I thank the senator for her question. In just one week DisabilityCare Australia launches around our country. In one week a new future will begin in Tasmania for young people aged between 15 and 24, in South Australia for children aged between nought
and 14 and in the Barwon area of Victoria and the Hunter area of New South Wales for people up to the age of 65. From 1 July 2014, DisabilityCare Australia will commence across the ACT and in the Barkley region of the Northern Territory. Rollout of the full scheme in these states and territories, as well as in Queensland, will commence progressively from July 2016. That will mean that 90 per cent of Australians will be covered under the agreements we have made with the states and territories, but we also want to see Western Australia step up to the plate and make sure that no-one is left behind.

Last week the government appointed a longstanding champion of disability reform in Australia, Mr Bruce Bonyhady AM, as the inaugural chair of the board of DisabilityCare Australia. The board will set the strategic direction of DisabilityCare Australia and play an important role in safeguarding its financial sustainability, including by commissioning and then considering actuarial advice in its decision making. The board members, appointed by the government, have extensive experience in the disability sector, in insurance matters, in financial management and in corporate governance. These appointments have been endorsed by all states and territories.

Next Monday, 1 July, marks the culmination of years of effort by government, the disability services sector, advocacy groups and most importantly people with disability and their families and carers. (Time expired)

Senator LINES (Western Australia) (14:38): Mr President, I ask a supplementary question. Can the minister inform the Senate how the National Disability Insurance Scheme will provide a boost to the economy?

Senator McLUCAS (Queensland—Minister for Human Services) (14:38): The Gillard Labor government has been working hard to deliver DisabilityCare Australia since we received the Productivity Commission's report in August 2011. Following extensive consultation, we have developed a scheme that asks what a person needs to reach their full potential. It is not one which determines eligibility based on the type of disability the person has or how or where they acquired it. When DisabilityCare starts on 1 July, services and supports will be planned around the person's individual needs. This will

Senator LINES (Western Australia) (14:36): Further to my first question, my last supplementary question is: can the minister advise the Senate on what the launch of DisabilityCare on 1 July will mean for people with disability, their families and carers?

Senator McLUCAS (Queensland—Minister for Human Services) (14:37): The government is committed to boosting the economy and ensuring that all Australians have the opportunity to participate in employment. In Geelong alone the establishment of DisabilityCare Australia headquarters will create about 300 jobs. This is in addition to the 120 jobs already announced for the agency's Geelong regional office, which will open on 1 July.

The government is continuing to build workforce capacity through the $122.6 million sector development fund. The fund will help National Disability Services provide business support and training to local organisations to ensure Australian businesses thrive. And at a national level we have secured a strong and sustainable funding stream for disability care with an increase to the Medicare levy.

Yesterday, Minister Macklin announced more than $500,000 in funding to the National Disability and Carer Alliance to run a series—(Time expired)
include, for example, funding for home modifications like hoists and handrails, or for a formal carer to support families in their caring role.

Local area coordinators are already on the ground, and from 1 July will help people with disability and their families and carers get the support that they need from the community. They will work with other services, like their schools or employment services, to get the very best outcomes. (Time expired)

**Australian Education Bill 2013**

Senator MASON (Queensland) (14:39): My question is to the Minister representing the Prime Minister, Senator Conroy. I refer the minister to the fact that the Prime Minister has described the Gonski reforms as 'the biggest change to school education in 40 years'. I also refer the minister to the fact that only two hours and 45 minutes has been allocated to debate the Australian Education Bill 2013 and the Australian Education (Consequential and Transitional Provisions) Bill 2013, in aggregate. Isn't the government's refusal to allow proper parliamentary debate on what it alleges to be the greatest change to school education in 40 years indicative of the shallowness of the government's rhetoric and its desire to avoid genuine scrutiny of its own legislation?

Senator CONROY (Victoria—Leader of the Government in the Senate, Minister for Broadband, Communications and the Digital Economy and Minister Assisting the Prime Minister on Digital Productivity) (14:40): Those opposite have no interest in the education of the children of our nation. They have no interest in improving our schools and lifting the results for all students. They have no interest, because only a Labor government believes in a stronger, smarter and fairer Australia.

The 2013-14 budget delivers almost $10 billion, confirming the Prime Minister's offer to implement a new national plan for better schools, regardless of sector or state. Those opposite did everything they could, behind the scenes—

*Honourable senators interjecting—*

The PRESIDENT: Senator Conroy, just sit down. Interference has finished so you can continue.

Senator CONROY: Those opposite did everything they could to spike Premier O'Farrell's agreeing to ensure that the students of New South Wales got the best possible education. They put enormous pressure on Premier O'Farrell not to sign. Once again, they are more interested in short-term politics than they are the welfare and the needs of school students in New South Wales.

So when they stand up in this chamber and cry crocodile tears that they do not have a whole week or a whole month to oppose and filibuster their way through a debate— (Time expired)

Senator MASON (Queensland) (14:42): I have a supplementary question. In the case of the Australian Education Bill 2013, the government has set aside 165 minutes to debate the expenditure of $16.2 billion. Does the minister seriously believe that giving the Senate one minute of debate for every $100 million the government plans to spend is anything but a complete insult to Australian taxpayers?
Senator CONROY (Victoria—Leader of the Government in the Senate, Minister for Broadband, Communications and the Digital Economy and Minister Assisting the Prime Minister on Digital Productivity) (14:43): What is an insult to Australian taxpayers is the fact that the best those opposite can come up with is getting out a calculator, plugging in a few numbers, and working out how many lines there are. That is the best the alternative government have to offer when it comes to the most significant reforms for our children's education in our country's history.

How many full-stops were there? Have you counted the full-stops yet? That will be your only contribution. If we gave you one hour or one year to debate the bill, Senator Mason, you would be adding up the number of full-stops. That is it. You are opposed to this bill. You are opposed to Australian children getting the best possible education. And those opposite will continue to cry poor all the way through question time, when they are not interested in the merit or the substance of these bills. They simply—(Time expired)

Senator MASON (Queensland) (14:44): Mr President, I ask a supplementary question. Given that the government cannot say where the extra $16.2 billion is coming from and cannot explain how spending that $16.2 billion will drastically improve literacy and numeracy, and cannot reassure thousands of schools that they will not be worse off under its so-called reforms, is it true that the only thing left in the government's education revolution is the guillotine?

(Time expired)

Senator CONROY (Victoria—Leader of the Government in the Senate, Minister for Broadband, Communications and the Digital Economy and Minister Assisting the Prime Minister on Digital Productivity) (14:44): Mr President, I fundamentally reject the premise of his question. But let me give you a very simple statistic. It took two full days just to process and go through the amendments to the EPBC—two full days. Those opposite engage in a filibuster on every bill, every piece of legislation, that they can, just so they can come in and complain that we have to pass a time management motion—just because you forgot to pass one—to absolutely make sure that Australian children get the best possible education. That is because those opposite have got nothing positive to contribute—nothing positive about reforming the economy, nothing positive about reform in education. (Time expired)

Myanmar

Senator MARK BISHOP (Western Australia) (14:44): My question is to the Minister for Foreign Affairs, Senator Carr. Can the minister update the Senate on the situation in Rakhine State, Myanmar?

Senator BOB CARR (New South Wales—Minister for Foreign Affairs) (14:44): Last year, senators will recall, communal violence broke out in Rakhine State between Buddhists and Muslim Rohingyas. The conflict resulted in 192 deaths, the destruction of 8,000 homes and the displacement of 140,000 people, mostly Rohingyas. But the discrimination against this population goes back a long way. It goes back over 100 years. It predates the present government in Myanmar by a long way. They are a stateless minority. Most do not have citizenship rights, and that is the core of the discrimination they face.

Australia's response to this is, first of all, to urge the government of Myanmar to produce—not easy, given the 100 years of discrimination—a just resolution to the plight of these people; and, second, to lend a hand in getting aid in providing assistance. I am proud to say that Australia is providing
food for 100,000 displaced people through the World Food Programme, in Rakhine State; protection for 37,000 children—contemplate that: 37,000 children—who have been separated from families; and tents and emergency shelter for 32,000 people who fled or lost their homes. That money has been allocated through the UNHCR.

As to the conditions, the camps have been described, by people who have spent time there and who know what they are talking about, as the worst refugee camps on the face of the planet. Our aid is providing blankets, clothes and mosquito nets for 14,000 people living in temporary shelters. The rainy season is making living conditions harder and increasing health risks. Our latest commitment is $1.5 million, therefore, to help UNICEF to provide 40,000 people with safe drinking water and better sanitation. *(Time expired)*

*Senator MARK BISHOP* (Western Australia) (14:48): Mr President, I have a supplementary question for the minister. How is Australia supporting development in Myanmar in the long term?

*Senator BOB CARR* (New South Wales—Minister for Foreign Affairs) (14:48): As well as humanitarian assistance, Australian aid to Myanmar is targeting long-term development assistance to eliminate poverty. Recent political reforms have improved the operating environment for donors, making it possible to increase our aid in Myanmar. We have invested $140 million in the country over the past three years. Next year alone, we will provide around $82 million in aid to Myanmar. We are providing aid for 1.9 million people with malaria, 22,000 people with HIV and 135,000 people with TB. We have helped more than 900,000 children go to school, including, among other things, by providing textbooks and stationery. Our aid has helped repair 1,000 primary schools. It will provide 120 new Australia Awards Scholarships this year for studying in Australia. Remember that this is a country where half the population will not complete primary school.

*Senator MARK BISHOP* (Western Australia) (14:49): Mr President, I have a further supplementary question for the minister. Can the minister update the Senate on the state of education in Myanmar?

*Senator BOB CARR* (New South Wales—Minister for Foreign Affairs) (14:49): This goes to the core of the development challenge the country faces after being retarded by dictatorship for all the decades since the military coup of 1962. Children in Myanmar face the prospect that they will have a lower level of education than their parents. Successive generations have been affected by low government investment in education and a shortage of teachers. Aung San Suu Kyi spoke to me about how education now is inferior to the education she received in the 1950s. In 2010, around one million children were not attending school, and only 54 per cent of children completed primary school, as I said a moment ago.

The Myanmar government is completing a comprehensive education review. We are co-chairing with UNICEF the working group which is overseeing the review. The review will help to better target investment in education. We have allocated $80 million over four years to help with this target. *(Time expired)*

**Migration Amendment (Temporary Sponsored Visas) Bill 2013**

*Senator CASH* (Western Australia) (14:50): My question is to the Minister representing the Prime Minister, Senator Conroy. I refer to the fact that, under the government's guillotine motion, the Senate has been given approximately 15 minutes to
debate the Migration Amendment (Temporary Sponsored Visas) Bill 2013 on Thursday. Given that this is a contentious issue of policy that needs to be properly debated, why is the government using the guillotine as a political tool to avoid scrutiny, negating the principles of accountability and openness?

Senator CONROY (Victoria—Leader of the Government in the Senate, Minister for Broadband, Communications and the Digital Economy and Minister Assisting the Prime Minister on Digital Productivity) (14:51): As I answered a few moments ago, the opposition are crying crocodile tears when it comes to complaining about the length of time available to debate this bill. If they had not filibustered, if they had not wasted two full days on the EPBC amendment, if they had not spent all their time deliberately gumming up the works of this chamber, we would not be in this position. But those opposite, who are the rank hypocrites for what they did with Work Choices and for what they did with the Telstra bill, now want to pretend to you—

Senator Brandis: Mr President, I rise on a point of order on relevance. The question was about the Migration Amendment (Temporary Sponsored Visas) Bill. It was about nothing else. It asked why the government was guillotining that particular bill. References to Telstra, references to the EPBC and references to other legislation earlier in this parliament or in earlier parliaments cannot be relevant to that question.

Senator Jacinta Collins: Mr President, on the point of order: the question was about one aspect of the government's time management program and Senator Conroy is explaining the form and the behaviour of this opposition and why it has been necessary to take such measures.

The PRESIDENT: Order! I believe the minister is answering the question. There is no point of order. I am listening to the minister's answer. The minister has one minute and 17 seconds remaining.

Senator CONROY: That those opposite are, again, time-wasting with these points of order—to grandstand and just repeat endlessly the same mantra—goes to the heart of why it is necessary. Those opposite have no interest in debating these issues. They have an interest in pursuing Mr Abbott's no-policy agenda. They want to oppose, oppose, oppose. They simply want to use this chamber as part of their political strategy. They will be exposed on that side of the chamber for having no interest whatsoever in substantive policy debate, because those opposite would not be able to make a positive contribution to these debates. They simply would stand up and say, 'No.' And then they would waste the rest of their time trying to justify their opposition for opposition's sake and trying to support Mr Abbott. (Time expired)

Senator CASH (Western Australia) (14:54): Mr President, I ask a supplementary question. Given the government's deliberate failure to conduct a regulatory impact statement in relation to the labour-market-testing aspects of this bill, is it not true that the extraordinary haste with which this bill has been rammed through the parliament is confirmation of the total control that the union movement has over the Green-Labor government?

Senator CONROY (Victoria—Leader of the Government in the Senate, Minister for Broadband, Communications and the Digital Economy and Minister Assisting the Prime Minister on Digital Productivity) (14:55): I thank the senator for that expansive question about the motivations of some legislation before the chamber.
Senator Brandis interjecting—

Senator CONROY: I am, as I have said many times and will continue to say in this chamber, a proud member of the Transport Workers' Union—as proud as Senator Brandis is for being in probably the toughest union in the white-collar industry: the lawyers' union. Those opposite have no interest in his legislation other than to reveal what every Australian should know. They hate trade unions, they hate working families and they intend to pursue an agenda that will undermine the living standards and undermine the conditions of all Australian workers. You hate trade unions, you hate—

(Time expired)

Senator CASH (Western Australia) (14:56): Mr President, I ask a further supplementary question. Is it not true that guillotining of debate on this important piece of legislation demonstrates that Minister O'Connor and the Labor government have an arrogant contempt for the Australian people and the Australian parliament, a trait that has become the hallmark of this government?

Senator CONROY (Victoria—Leader of the Government in the Senate, Minister for Broadband, Communications and the Digital Economy and Minister Assisting the Prime Minister on Digital Productivity) (14:56): I am not sure if that actually qualifies as a question or a rant, Mr President. Those opposite have put together a political rant and pretend it is a question. I reject absolutely every aspect—not the premise; every aspect—of that question.

Tourism

Senator GALLACHER (South Australia) (14:57): My question is to the Minister Assisting on Tourism, Senator Farrell. Could the minister outline to the Senate how the Gillard government is supporting the tourism sector in regional Australia?

Senator FARRELL (South Australia—Minister for Science and Research and Minister Assisting on Tourism) (14:57): I thank Senator Gallacher for his question and his well-known interest in the Australian and particularly the South Australian tourism industry. The Gillard government supports tourism across Australia, including in our regions, through a range of targeted grants programs and initiatives and through our highly effective marketing tool, Tourism Australia.

In the 2012 round of our T-QUAL Grants Program, nearly 90 per cent of successful applications were from outside Sydney, Melbourne and Brisbane, with a very high proportion being from regional areas. There were 294 applications received for the current T-QUAL round, which closed on 3 May. Successful applicants will be announced later this year and we expect many regional projects to again earn a grant. Direct support for our regional tourism sector is provided through our $48.5 million Tourism Industry Regional Development Fund grants program, known as TIRF. Successful applicants under the first round of TIRF were announced in March. In that round we initially offered a total of $13.5 million, Senator Ronaldson, to 65 successful applicants, leveraging a total of $141 million investment in regional tourism across Australia. An additional 19 high-quality projects will share in a total of $4.3 million funding under the round 1 projects.

Round 2 of TIRF opens today. I was very pleased to be able to announce the second round on Saturday at the Seppeltsfield Estate Winery in South Australia's iconic Barossa Valley. Seppeltsfield has been offered $250,000 under round 1 of our TIRF program. The winery owners believe the projects, with the support of TIRF, will boost their visitor numbers by 30 per cent.
Senator GALLACHER (South Australia) (14:59): Mr President, I ask a supplementary question. Can the minister outline the specific benefits of round 2 of the Tourism Industry Regional Development Fund grants program?

Senator FARRELL (South Australia—Minister for Science and Research and Minister Assisting on Tourism) (15:00): I thank Senator Gallacher for his supplementary question. Round 2 of the TIRF program opens today and closes on 7 August. The second round is making nearly $10 million available for projects that will boost regional tourism. Many of the successful projects will be bricks-and-mortar initiatives that will improve the quality of existing tourism destinations, products and services. Others will be new and innovative tourism developments.

We have also included a specific labour and skills funding stream in this round, called Labour and Skills Enhance. This stream makes more than $2 million available for projects that improve regional Australia’s capacity to increase tourism labour supply and lift service quality. This funding will support labour and skills related infrastructure such as training centres or staff accommodation. It is also available for a broad range of projects that deliver targeted, practical measures to address labour and skills needs such as the training programs and regional tourism. *(Time expired)*

Honourable senators interjecting—

The PRESIDENT: Order on both sides! I insist that we have quiet so that the person asking the question can be heard in silence. To my right, order!

Senator GALLACHER (South Australia) (15:01): Mr President, I ask a further supplementary question. Can the minister outline to the Senate why it is important to support the tourism sector in regional Australia?

Senator FARRELL (South Australia—Minister for Science and Research and Minister Assisting on Tourism) (15:02): I thank Senator Gallacher for his excellent supplementary question. Forty five cents in every dollar spent on tourism in Australia is spent in regional destinations. There were nearly two million international visitors to regional Australia in the year 2012 and collectively they spent about $3 billion. Domestically, there were 47 million visitors to regional Australia and they spent more than $23 billion.

Clearly, tourism is an integral part of the local economy for many regional areas. The labour statistics suggest that tourism’s contribution to regional economies is growing. International tourists are increasingly looking for uniquely Australian experiences, many of which are in our regions. Australian holidaymakers are visiting our regions more often and spending more time and more money in those areas, which is supporting local jobs and regional economies, even in Far North Queensland, Senator. This government’s support for regional tourism is helping the industry to—*(Time expired)*

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

QUESTIONS WITHOUT NOTICE: ADDITIONAL ANSWERS

National Broadband Network

Senator CONROY (Victoria—Leader of the Government in the Senate, Minister for Broadband, Communications and the Digital Economy and Minister Assisting the Prime Minister on Digital Productivity) (15:03): For the information of the Senate, I table additional advice on a question asked of me...
last Thursday by Senator Birmingham and I seek leave to incorporate the information into Hansard.

Leave granted.

The answer read as follows—

Minister for Broadband, Communications and the Digital Economy

SENATE QUESTION WITHOUT NOTICE
20 JUNE 2013

Question:

Senator BIRMINGHAM (South Australia) (14:47): Mr President, I ask a further supplementary question.

1. Can the Minister advise the Senate how many of these new specialist contractors are being engaged?

2. How long does the government anticipate needing to use such specialist contractors?

3. What will the additional cost to NBN Co. be of engaging these specialist contractors in addition to its existing contractors?

Answer:

A new national standard for dealing with asbestos in pit and pipe infrastructure is being developed. Until such time as the new national standard is agreed and the training course is up and running, NBN Co will transfer the important task of handling and removing asbestos in pit and pipe, and disposing of asbestos waste, from its Tier One contractors to specialist asbestos removal firms. In the Northern Territory NBN Co is managing the rollout directly.

1. NBN Co has identified a number of specialist licensed asbestos removal contractors in each state and provided that list to our build partners. When a build partner identifies infrastructure that they propose to remove that may contain asbestos, they will call one of those listed and contract direct to have the material safely handled and disposed of. They inform NBN Co 24 hours in advance so NBN Co can monitor that the process is being adhered to.

2. NBN Co will continue with this process for as long as it takes until a national standard for asbestos removal in telecommunications infrastructure is developed and implemented.

3. With regards to the cost of engaging specialist contractors, the asbestos removal work that NBN Co contractors are undertaking is minimal as most of this work will be undertaken by Telstra. NBN Co therefore does not envisage a significant impact over the life of the project. It is anticipated that this work will be done within the parameters of the Corporate Plan.

Indigenous Employment

Senator WONG (South Australia—Deputy Leader of the Government in the Senate and Minister for Finance and Deregulation) (15:03): On 20 June, Senator Payne asked me a question in relation to the Remote Jobs and Communities Program. I have some further information in relation to that question and I seek leave to incorporate it into Hansard.

Leave granted.

The answer read as follows—

The Minister for Indigenous Employment and Economic Development, the Hon Julie Collins has announced the providers for all of the Remote Jobs and Communities Program (RJCP) regions as at 24 June 2013.

Applicants for RJCP were required to demonstrate connections with the communities in the regions for which they applied. Successful providers include organisations which have been delivering Job Services Australia, Disability Employment Services or the Community Development Employment Projects (CDEP) Program as well as organisations which have been undertaking other programs, services or business activities in remote Australia. Many partnering arrangements have been developed which will strengthen local service delivery.

All RJCP providers have footprints in their remote Regions, for example, as current service providers with pre-existing presence, by accessing the facilities of local subcontractors or partners, or by putting arrangements in place to commence RJCP on 1 July 2013.

Providers for the regions announced on 24 June 2013 have existing presence in these regions. Transition provisions for job seekers and
Homelessness

Senator McLUCAS (Queensland—Minister for Human Services) (15:03): I have for the Senate some extra information to the question that was asked of me today by Senator Ludlam. I can advise the Senate that all states and territories are committed to the Transitional National Partnership Agreement on Homelessness for 2013-14.

ANSWERS TO QUESTIONS ON NOTICE

Question No. 2992

Senator WHISH-WILSON (Tasmania) (15:04): Pursuant to standing order 74(5), I ask the Minister for Finance and Deregulation for an explanation as to why an answer has not been provided to question on notice No. 2992, asked on 23 May this year.

Senator WONG (South Australia—Deputy Leader of the Government in the Senate and Minister for Finance and Deregulation) (15:04): Certainly Senator Whish-Wilson is very prompt, given that I think the 30 days expired yesterday. The question does seek a large amount of detail from across government. In case the Senate is not aware, the government has been asked for a list of all clothing companies used by all government departments over the past three years and which companies supply the material—fabric, thread, buttons and zips—for government uniforms and the like. It is obviously a very substantial amount of information. We will certainly endeavour as quickly as possible to get Senator Whish-Wilson a response to the question.

I would make a couple of points in relation to the substantive core of the question. The first is that the Commonwealth Procurement Rules, for which the Finance portfolio is responsible, do require those making procurement decisions to ensure that they are using Commonwealth resources in an efficient, effective, economical and ethical manner that is not inconsistent with the policies of the Commonwealth. In addition, there is a specific obligation at paragraph 6.7 that agencies must not seek to benefit from supplier practices that may be dishonest, unethical or unsafe.

Under our devolved financial management framework, compliance with these rules is a matter for individual agency heads. The Department of Finance and Deregulation provides guidance and support for Commonwealth agencies in complying with those rules. That goes to some of the issues that were raised in the question. I will also ensure that, as quickly as is practicable, we provide a formal response to the senator.

Senator WHISH-WILSON (Tasmania) (15:06): I move:

That the Senate take note of the explanation.

I thank the minister for her answer. Government has a very important role to play in showing leadership on this issue. It is not just about buttons and zips; this is a much bigger and very important issue of how we ethically source garments.

Four Corners will be showing a documentary tonight that relates to the collapse of Rana Plaza in Bangladesh on 24 April when nearly 1,200 people were killed. The Senate did show some leadership on this issue, just recently passing a motion calling on all the major retailers to sign the Bangladesh accord. Following that motion, I
wrote to Woolworths, Coles and Kmart asking if they would be signing that accord. So far I have received an explanation from Woolworths that they do intend to sign that accord. They certainly understand the significance of this issue.

This is all about education and the awareness of the Australian public. I must confess, going shopping with my 13-year-old daughter recently, I found there is very little information around on where garments and clothing items are sourced from. We often do not realise that attached to the production of these clothes are some appalling working conditions that will be covered by the Four Corners documentary tonight.

It is important that the government shows leadership on this issue to raise education and awareness. It certainly was not a flippant question nor was it at all a witch hunt. With the documentary being this shown evening, I did see an opportunity to get this issue on record. If we can show that we do have some sort of certification process for the garments procured by the Commonwealth then that could set a good example for other businesses. While Coles, Woolworths and Kmart are looking at signing the Bangladesh accord, that is only with one country and they are only three organisations.

A large number of other retailers and importers also bring in cheap products from foreign countries that are also associated with appalling worker safety and pay conditions. This is a really big issue. This debate relates to fair trade versus free trade. It is all about price these days in our consumer society. We buy a lot. We expect to pay virtually nothing, particularly for items of clothing. But what we do not do is stop and think about where those clothes were made, under what conditions they were made and whether our buying patterns are supporting and locking in appalling working conditions.

How do you beat this? You need an education and awareness program. You also need a certification process, if not through a voluntary code then through a mandatory code, that compels producers to identify where those garments were made, from where they were sourced and under what ethical conditions. I thought this was a good opportunity for the government to show some leadership on this issue and that is why I sent the questions through. I look forward to receiving those responses.

Question agreed to.

QUESTIONS WITHOUT NOTICE: TAKE NOTE OF ANSWERS

Superannuation

Australian Education Bill 2013

Migration Amendment (Temporary Sponsored Visas) Bill 2013

Senator CORMANN (Western Australia) (15:10): I move:

That the Senate take note of the answers given by the Minister for Broadband, Communications and the Digital Economy (Senator Conroy) to questions without notice asked by Senator Cash, Cormann and Mason today relating to the consideration of legislation in the Senate.

The Gillard government are in complete chaos. They are unravelling before our eyes. There is chaos, dysfunction, division and incompetence everywhere. They have one hand at each other's throats and the other hand with a knife in each other's backs. They are jumping ship, packing up their bags, packing up their offices. They are all over the place. The Gillard government has not just lost its way; it has lost the plot. But guess what? In the middle of all this chaos, in the middle of all this dysfunction, in the middle of all this division and incompetence, there is one thing that will always unite the
Australian Labor Party—that is, the bidding for the union movement. When there is the vested interest of the union movement at stake, they will not leave any stone unturned. So it is this week.

I asked Senator Conroy why there was not going to be a proper debate on the Superannuation Legislation Amendment (Service Providers and Other Governance Measures) Bill 2013. The answer is very simple: because the union movement is desperate, absolutely desperate, to see this bill go through without the sensible amendment that was proposed by the coalition in the House of Representatives and that, extraordinarily, was passed by the House of Representatives 72 to 68. It would see at least one-third of directors on union dominated industry super funds be independent directors, to ensure that there is some proper attention and an appropriate diversity of skills, background and perspectives on superannuation boards. But of course the union movement is desperate to prevent that from happening, even though the government's own Cooper review—which was commissioned by former Senator Nick Sherry, who actually cared about good policy in superannuation—recommended that it was absolutely vital to ensure that there was appropriate provision for independent directors on industry super fund boards. But Minister Shorten, at the behest of the union movement, who did not want any interference in his cosy corporate governance arrangements that are currently in place, went out of his way to stop the particular measure from going ahead.

Here we are being asked in the Senate to deal with not one, not two, not three but four superannuation bills in less than an hour. The House of Representatives, which is not usually known to be a very detailed house of review and does not take a lot of time in the final details and the final policy issues behind the specific pieces of legislation, spent 54 minutes dealing with just one set of coalition amendments to improve this legislation. Yet here in the Senate, where we are supposed to be the house of review, where we are supposed to provide proper scrutiny of executive government proposals, we will be lucky if we have half an hour for the four bills, given all of the divisions that are probably going to fall over from before.

This is just an indication of everything that is wrong with the Gillard Labor government. For six months, this bill lingered in the House of Representatives, with the government doing nothing to progress it. Then all of a sudden they put it up and lost a vote on the floor of the House of Representatives, which, if there was not so much other incompetence and chaos going on, would probably have been front page news. But in the middle of all the chaos and incompetence under the leadership of our current Prime Minister it is very hard for a lost vote in the House of Representatives to get onto the front page of the newspaper. Here we are today and the government is ramming this through. Things have become so ridiculous that Minister Shorten is now lobbying the Financial Planning Association to lobby me so that I will lobby the government to add something else to the list of latest bills to be guillotined. Why doesn't he talk to his own people? Why is he asking the Financial Planning Association to lobby me so that I will lobby the government on his behalf? This government has completely lost the plot. They are going in 102 different directions. It is time for this farce to come to an end. (Time expired)

Senator GALLACHER (South Australia) (15:15): The Labor government makes no apology for having a full legislative agenda. To be fair and give credit to the opposition, they should not be shy about taking credit for delaying the
legislative agenda of the Labor government. There is always a star on the other side, and that is probably Senator Macdonald. In the short time that I have been in this 43rd parliament, I have noticed that Senator Macdonald has never missed an opportunity to filibuster, amend, procrastinate, report and waste the time—in my considered view—of the Senate. That is his job. He is in opposition. He does not like being in opposition, but that is his job. He is there very diligently working away and taking every opportunity of wasting a second or a minute. He probably has a blackboard in his room that he uses to work out how much he has wasted every day. That is, as I said, their job.

We have a limited sitting period and a full legislative agenda. Taking a cursory glance at the number of bills that have passed through the 43rd parliament, there have been a very large number of them. I read the other day that 87 per cent of them were passed with consensus. But as we get down to the end of the legislative cycle—the end of the opportunity to pass legislation—we notice an increase in the activity of the opposition as they try to use up all of the available time. And that is their job; make no mistake, they are stars at it. Then, when the government, faced with not completing its rightful task, implements, with the Greens, the guillotine, all hell breaks loose.

I would like to talk a little bit about the superannuation industry. I am not sure that Senator Cormann is on the mark there, despite the fact that you opposed the introduction of superannuation—which, let us be fair, was a wage rise deferred—and you opposed industry super funds all the way until they became a trillion-dollar part of our economy. They were instrumental during the GFC in bankrolling our banks. There has been substantial change in the composition of boards. The unions did have the numbers in the old days—I was around in those days. There were five union directors and four employer directors. It has been legislated that they must have an even number of employer representatives and union representatives, with an independent chair. These things are working.

But Senator Cormann wants to go further. He wants to further disenfranchise the voice of workers in their own superannuation funds by adding another level of supervision, another level of cost. The guts of it is that all trustee directors act in the interest of members only. Adding another three independent directors at the sorts of salaries that they command means that that cost has to be spread among the members of that super fund. There is no shortage of independent and professional advice in industry super funds. I was a super fund trustee for 16 years. I chaired the investment committee. We were able to get every bit of independent advice that we needed with no problem whatsoever.

Senator Cormann interjecting—

Senator GALLACHER: No, Senator Cormann, that is not true. If every boss was elected by his workers in the same way that we were then he would be allowed to sit on the board of a super fund. Industry super funds are delivering year in, year out very good returns, including this year. With proper governance, proper due diligence, proper access to independent advice, independent chairs, diligent employer representatives and diligent union representatives, no aspersions can be cast. There has been no failure in industry super. The trustees have represented the members and delivered for working people in Australia year in and year out. We want that to continue. MySuper is one of those things that will make industry super funds better
and enable them to deliver better returns for working Australians. (Time expired)

Senator MASON (Queensland) (15:20): I have often admired the Prime Minister’s commitment to and sincerity about education, including higher education, and her belief in its transformational nature. I know that she used to welcome serious policy debate on education. She, like many of us in parliament, has benefitted from a good education. I read her National Press Club speech on this topic and it was excellent. She, better than most people in this place, understands the role of education in changing our lives. How we fund our schools—both government and non-government—is very important. All of us in this place know that standards are failing within our schools both domestically and, comparatively, internationally. We spend a fortune in this country on education and yet our standards are falling. The United Nations says that we are the best place in the world to live, according to the human development index. And yet our education system is failing us.

There is real concern in the community about teacher quality, as you would be aware, Mr Deputy President. There would not be much between the government and us—a cigarette paper of difference—about the importance of teacher quality and of community and parental engagement. All those issues are absolutely key, and are in fact the key to making Gonski work. You can throw buckets of money at education and it will not make a dime of difference. That is why we need this debate in this country.

For some reason the government does not seem to want to have this debate. Can you imagine spending 2¾ hours on Wednesday afternoon on something as vital as this is to our nation’s, and our kids’, future? As the Prime Minister herself said, ‘It is the biggest change in school education in 40 years and there was less than three hours of debate devoted to it.’ This is absolutely and utterly ridiculous. There are stacks of policy questions, and I have just touched on some, that need to be teased out, but they will not be because there will be no time. There has not been an effective debate either in the parliament or in the community on this issue. An amount of $16.2 billion in expenditure discussed in less than three hours—about $100 million every minute. That is just not good enough.

As my friend Senator Abetz has pointed out, guillotining a debate has now become standard practice. This week is the highlight. It is the culmination of the standard practice of guillotining debate in this parliament by the Labor Party and the Greens. I remember Mr Oakeshott’s comments on the much vaunted new paradigm. What have we got instead? We have had the application of the guillotine more times than in the French Revolution. This is the reign of terror. Now the Prime Minister is the new Madam Defarge, with a nod and a wink at Senate despotism. The guillotine is being sharpened and it will be used ruthlessly throughout this
week to stop debate. It is pathetic. The Labor Party is better than this.

An honourable senator interjecting—Not much.

Senator MASON: I think they are, in fact. But, as you know, I can resist anything except temptation. On the question of the coalition applying the guillotine, on 8 December 2005, Senator Conroy said:

Once again we are seeing the results of the government's complete arrogance and, more importantly, complete incompetence in managing the business of the chamber. You can forgive a desire to get your bills through by the end of a session. What you cannot forgive is this sheer arrogance and incompetence.

That is the epitaph for a rotten government.

Senator CAROL BROWN (Tasmania—Deputy Government Whip in the Senate) (15:25): I rise to refute some of the wild claims made here today by those opposite. It is always a pleasure to follow Senator Mason, though he was somewhat quieter than normal! He talked about the need for education reform, and he is quite right. I know that those opposite do not support the Gonski reforms. But those of us who have joined with parents and their children at many rallies, meetings and conference know that this piece of legislation is long overdue. I will come back to that in a moment. The simple fact is that the majority in this place today voted to vote on these bills by the end of the week.

Senator Mason interjecting—

Senator CAROL BROWN: More interjections and more complaints. I have been here when in opposition. I saw how the Howard government ran the Senate. I saw them filibuster debates out and not allow proper scrutiny. They have form on this. They have a long record of abuse of the Senate when they were in government. But I do not want to go there. I want to talk about the legislation.

There are several pieces of legislation but I want to talk about the Australian Education Bill, what it means and why it is so important for it to be debated and passed this week before the parliament rises. The National Plan for Better Schools will give every child the individual help they need to reach their potential. It will lift teaching standards so that the best and brightest are in charge of our schools and classrooms. It will provide more information to parents and the community about school funding and performance. It will tackle school bullying so that every child can learn in a safe environment.

The Gonski reforms that the legislation is in part based on are so vitally important for our school children and, indeed, our future. I say to those opposite that they need to go out into the community and say why they could not do this today when we have already spent hours this morning debating a time-management motion. We had hours to do that. We also spent days listening to Senator Birmingham, who is a very excellent member of parliament, but do we have to listen to the same speech for days on one piece of legislation? The reason we had to do that was that the opposition wanted to come to this point. They wanted to say that the government was guillotining important pieces of legislation that they had been waiting to debate. But that is not true. It is all contrived so that they can come here, to this point, to make a faux argument about why they are concerned, but they are not concerned.

They opposed Gonski. I am unsure what their position is on the Constitution Alteration (Local Government) 2013—the referendum bill. I am happy for them to enlighten me. But I understand now that
perhaps it will be a conscience vote on that issue. Some will support it and some will not. That is what the coalition has come to these days. They are so keen to be such small targets that they cannot even have a proper debate in their caucus anymore and come out with a position. They allow all sorts of things to be happening in the background. There are many, many important pieces of legislation here that the community wants us to progress, Gonski being one, the aged-care bills being another and the charities bill being another. These are important pieces of legislation that need to be voted on by the end of this week for the future of Australians. *(Time expired)*

**Senator CASH** (Western Australia) (15:30): I am so glad to see the minister whose answers we are taking note of today, Senator Conroy, come back into the chamber so I can remind him of his shameless hypocrisy in relation to the answers he gave to the questions asked by Senator Cormann, myself and Senator Mason. The minister, when answering the questions in relation to the guillotining of certain pieces of legislation, said that we as a coalition were shameless to stand here and ask the questions we did. He then referred to the debate on WorkChoices, stating that it had been gagged. But when you consider that WorkChoices was given a full day's hearing, that is nothing compared with the motion that the Labor Party, along with their little alliance partners—the doormats the Greens—voted to support in the Senate today.

In relation to the minister's hypocrisy, I too would like to read into the record some things the minister said when he was in opposition and the former Howard government was in office. This is what this minister said in relation to the guillotine: 'It is the worst abuse of parliamentary process in my 9½ years. What they are doing today has been a travesty of parliamentary democracy. What we are seeing now is an absolute farce, a guillotine. The ultimate expression of the Howard government's contempt for the Senate, however, can be seen in the government's willingness to gag debate in the Senate.' And the list of quotes goes on and on and on. But nothing that the minister was commenting on when the former Howard government was in power compares to what this Senate voted on today.

As of this evening, we are going to be ramming through this place 55 pieces of legislation. There are certain pieces of legislation that are of a highly contentious nature, and the Senate is being given less than 15 minutes to debate them.

The government wants to ram to the Migration Amendment (Temporary Sponsored Visas) Bill 2013—the bill I asked questions about today in the Senate—through the Senate because this, of all the bills that have been guillotined, has been solely designed by Minister O'Connor for his mates in the union. This is not good public policy. The government's own Office of Best Practice Regulation stated, in relation to the labour-market-testing aspects of this bill, that it was beholden on the government to conduct a regulatory impact statement. And do you know what the Prime Minister said to Minister O'Connor when he asked for an exemption? The Prime Minister said: 'No worries, mate. Don't worry about it, because we made a promise to the CFMEU, we made a promise to the TWU and we made a promise to the AWU that we would ram this bill through the other place and then we would get it into the Senate and ram it through the Senate.'

And that is exactly what this motion does. It gives us all of 15 minutes to debate what probably is one of the most contentious pieces of legislation to come before this parliament in the sitting period; we get 15
minutes. But, again, this is why: the Prime Minister herself, as we all know—despite the fact that she tells the people of Australia that the 457 system is being rorted—employs her chief spin doctor, Mr McTernan, on a 457 visa. The Prime Minister has been asked on several occasions under the Freedom of Information Act to produce the labour market testing in relation to Mr McTernan. Her office, on two occasions now, has asked for an extension in excess of 40 days. She has now asked for a further extension in excess of 40 days, which has been denied by the information commissioner. If the Prime Minister was dinkum about the 457 visa system, she would automatically come to this parliament and she would produce the labour market testing in relation to Mr McTernan. Her office, on two occasions now, has asked for an extension in excess of 40 days. She has now asked for a further extension in excess of 40 days, which has been denied by the information commissioner. If the Prime Minister was dinkum about the 457 visa system, she would automatically come to this parliament and she would produce the labour market testing in relation to Mr McTernan. But she refuses to, and the only conclusion that can come from that is quite possibly that there was no labour market testing and the Prime Minister herself is guilty of a rort in the 457 program. That is why this legislation has been rammed through the parliament. (Time expired)

Question agreed to.

Tasmanian Wilderness World Heritage Area

Senator MILNE (Tasmania—Leader of the Australian Greens) (15:36): I move:

That the Senate take note of the answer given by Senator Conroy to a question without notice asked by Senator Milne today relating to an extension to the Tasmanian World Heritage Area. I stand today delighted that the World Heritage Committee, meeting in Phnom Penh in Cambodia, has today agreed to the extension of the Tasmanian Wilderness World Heritage Area so that 170,000 hectares will be added to the area. This is an exciting day not only for Tasmania but for the world, because the world has recognised that these forests are of outstanding universal value to humankind. That is an extraordinary decision and something Tasmania can be really proud of. It further highlights Tasmania as clean, green and clever; our brand for Tasmania is enhanced by recognising the value of these fantastic forests that we have.

I am standing here today celebrating this extension of our World Heritage area which means that these forests will be protected for all time. That is an amazing tribute to the people who have worked for that. I go back to when this campaign started in the early 1980s. No-one will forget the Helsham inquiry and Farmhouse Creek. Then, in 1989, when we moved to put these forests into the World Heritage area, it was resisted by the then Premier of Tasmania, Michael Field, and by David Llewellyn, who fought against it. Graham Richardson, who was then federal Minister for the Environment, would have included those areas had they been agreed to but, as I said, Michael Field and David Llewellyn held out against it. Over the years Senator Bob Brown, Peg Putt and my colleagues in the Tasmanian parliament fought for the protection of these areas together with so many people in the community, such as the Wilderness Society and the ACF. Names such as Alec Marr and Geoff Law come to mind, not to mention the people in the Huon Valley Environment Centre, Still Wild Still Threatened, all the direct action groups, the wilderness photographers, and the artists in Tasmania who worked so hard; and people like the late Helen Gee whose book For the Forests documents really well the campaign for the protection of forests. I pay tribute to people like Helen and to people like Ben Morrow. Ben, who lost his battle with cancer, was one of the people who worked hard. Now we are seeing the forests of the Styx, the Weld Valley, the Florentine, the Great Western Tiers and the glaciated landscapes of Mount
Field all going into the extension of the Tasmanian Wilderness World Heritage Area.

In looking at this, I also look at the people who resisted and opposed it for so long. No-one will forget the resource security legislation where the logging industry, supported by both the Liberal and Labor parties in Tasmania, worked to try to keep the forests out of protection. When he was Premier, Ray Groom brought in the most draconian anti-forest protest laws, which Paul Lennon was later forced to withdraw because they gave unfair competitive advantage to Tasmanian loggers over mainland loggers. There was also the campaign that Jim Bacon and Paul Lennon, former premiers of Tasmania, ran to oppose forest protection. In the end, it was a minority government, both in Tasmania and federally, which worked with the Greens—and I pay tribute to Nick McKim, my Tasmanian colleague, who worked at the Tasmanian level on the boundaries for this Tasmanian Wilderness World Heritage Area extension, and to my colleague, former Senator Bob Brown; I worked with him last year, and with Minister Burke—to get this nomination up and ready to be submitted by 8 February this year. I am delighted that Minister Burke submitted that extension to the Tasmanian Wilderness World Heritage Area and that it has been accepted and protected.

I also welcome the fact that the World Heritage Committee has called on the Tasmanian and Australian governments to assess the cultural heritage of the area, and I would include in that assessment areas beyond the area that has currently been listed with a view to looking at Tasmanian Aboriginal heritage for the longer term. I look forward to those assessments. I note that the coalition has opposed this extension to the Tasmanian Wilderness World Heritage Area and remains opposed. It is now protected for all time. I would urge the coalition to get behind this nomination and recognise what a fantastic thing it is for Tasmania and Australia to now be able to proudly say that those forests, so long campaigned for, are to be protected, will be protected and will be looked after for the future. I congratulate everyone concerned. There will be great celebration in Tasmania.

(Time expired)

Question agreed to.

PERSONAL EXPLANATIONS

Senator IAN MACDONALD (Queensland) (15:41): In the debate that occurred before question time, I was misrepresented and I seek leave under standing orders to make a brief statement.

Leave granted.

Senator IAN MACDONALD (Queensland) (15:41): During the debate on guillotining yet more bills, Senator Milne, the Leader of the Greens, indicated that I had pleaded and demanded that the Sugar Research and Development Services Bill 2013 be included in the guillotine. That is simply not correct. It is true that I asked the minister and the Greens if they could ensure that this Sugar Research and Development Services Bill, which is so important to the sugar industry, was dealt with in this sitting of parliament, but to suggest that I wanted it as part of the guillotine is simply wrong.

CONDOLENCES

Hodgman, Hon. William Michael, AM, QC

The DEPUTY PRESIDENT (15:42): It is with deep regret that I inform the Senate of the death on 19 June this year of William Michael Hodgman AM QC, a former minister and member of the House of Representatives from the division of Denison, Tasmania, from 1975 to 1987. I am sure senators will understand when I say
that, in his latter life in the Tasmanian parliament, he was Her Majesty's loyal shadow Attorney-General. I call on the Leader of the Government in the Senate.

Senator CONROY (Victoria—Leader of the Government in the Senate, Minister for Broadband, Communications and the Digital Economy and Minister Assisting the Prime Minister on Digital Productivity) (15:43): By leave—I move:

That the Senate record its deep regret at the death on 19 June 2013 of the Hon. William Michael Hodgman AM QC, former minister and member for Denison, and place on record its appreciation of his long and meritorious public service and tender its profound sympathy to his family in their bereavement.

All senators will mourn the loss of Michael Hodgman who passed away on 19 June at the age of 74. Mr Hodgman was one of the most colourful figures in Australian politics. There are many parliamentarians who have served the public in both a state parliament as well as in the federal parliament. Senators Singh, Bob Carr, Thorpe, Rhiannon and Xenophon are just some recent examples of that. Michael Hodgman, however, went one better. Over five decades in politics he had two careers in state parliament, separated by a period in the federal parliament. He served the Tasmanian Legislative Council as the member for Huon from 1966 to 1974. He was then elected to the federal seat of Denison on the second attempt in 1975. He held that seat until his defeat in 1987. I had the good fortune, as a very junior woodchuck staffer, to occasionally bump into Mr Hodgman as he strode around Old Parliament House, and 'colourful' is absolutely an appropriate term that ascribes Mr Hodgman. He was very self-deprecating and he always enjoyed a laugh.

In 1992 he was elected as the member for Denison in the Tasmanian House of Assembly and held that position until 1998. He regained that seat in 2001 and held it until his retirement in 2010. There are many cases where politics has been a family business—the Downers, the Anthonys, the Creans, the McClellands and the Fergusons, to name just a few. The Hodgman family has equally distinguished itself in public service in Australian parliaments. Michael Hodgman's father, William, also served in both houses of the Tasmanian parliament. His brother succeeded him in the seat of Huon and, more recently, Michael Hodgman's son, Will, served in the same parliament.

It is somewhat astounding that a person with such a long and distinguished political career found time for anything else. Michael Hodgman was not only a politician but also a barrister, a sailor, a boxer, a horseman, a punter and a player. As a barrister he appeared before the High Court as well as representing some of Australia's most notorious criminals. Federal Court Judge Duncan Kerr won the federal seat of Denison from Mr Hodgman in 1987 and said:

Michael was blunt, outspoken, fair, funny, and, despite our two fiercely fought campaigns, my friend.

He continued:

He was an outstanding advocate who gave freely of his skills on a pro-bono basis to appear in some of the most difficult cases before the courts.

As a gentleman jockey, unpaid, and a boxer, Mr Hodgman added to his collection of tales which he shared with all and sundry. All of us who pursue a career in politics understand that a part of the process of seeking to represent our fellow Australians is the need to build a public profile. Few have achieved that as successfully as Michael Hodgman. He was the most recognisable person in Tasmania for decades.

In his time in Canberra he came to be known, in the most affectionate of ways, as
the 'Mouth from the South'. On one famous occasion, as minister for territories, he responded to a question from Bob Katter, then a Nat, in a way that was described by Mungo McCallum as 'screaming adjectives like a maddened thesaurus'. As a politician Mr Hodgman was a complex mix of conservative and genuine liberal. He was a staunch monarchist in regard to Australia and also a supporter of independence for East Timor long before it was popular.

I extend my sincere condolences to his family, friends and colleagues. His life was a full one and we in political life appreciated the time he shared with us. He will be remembered as a great contributor to his state and to the nation, and he goes to his grave holding a secret that many of us have always wanted to know—who was Chickenman?

Senator ABETZ (Tasmania—Leader of the Opposition in the Senate) (15:48): Today we salute the life and contribution of the irrepressible, the honourable William Michael Hodgman AM, QC to public life. He was a true Tasmanian patriot and a true Australian patriot. His commitment to Queen and country was unparalleled. His loyal toasts will never be surpassed for fervour or passion, and his love of our Australian flag was never left in doubt. So today, as a mark of respect and personal affection—but I hasten to add, as a one-off—I have felt it appropriate to emulate his passion for the flag. If Michael had his way we would not be mourning his passing with a condolence motion but, rather, would be celebrating a full life lived at 100 miles an hour with a motion of thanksgiving.

'Irrepressible' is one descriptor of the many in the avalanche of adjectives employed in seeking to described the indescribable character that is, or was, Michael Hodgman. I have chosen 'irrepressible' to describe the unique, dynamic and hyperactive life of Michael Hodgman. His irrepressibility was no more on display than when Michael was diagnosed with the cruel disease that was ultimately to claim him. On receiving his diagnosis he remarked to his brother, Peter:

'I've got bad news and good news. The bad news is I'm going to die. The good news is—not yet. The diagnosis was not good—three years. Here we are, 14 years after that diagnosis, paying tribute to his life. There is no doubt that he willed his life to that extra decade, such was his dogged determination and commitment when he set his mind to something.

It is one of the ironies of life that a man who was never short of a word, dubbed the 'Mouth from the South', was so cruelly taken from us by a disease that slowly robbed him of his breath. His slow deterioration was fought with courage and absolute determination. Even when I last saw him, with oxygen bottle in tow and in a wheelchair, he did not complain about his lot in life. He was positive about the future, the Liberal Party, the next state and federal elections, the monarchy, the flag and the mighty Cats—although they did let him down yesterday. His positive outlook on everything was infectious, inspiring and a lesson for all of us. He was seriously irrepressible.

Michael was a man who could walk with princes and mix with genuine ease at the local RSL or pub. His was a life lived to the full. He jammed into 74 years what would normally take centuries of human endeavour. His involvements and patronages were legendary. While the MLC for the seat of Huon in Tasmania's upper house, which he won at the age of 26, he was made a life member of the wharfies union, or the Maritime Union of Australia, at Port Huon.
In his bid for the federal seat of Denison he spoke out against the compulsory trade unionism and 'no ticket, no start' which shamefully operated on building sites. He made himself available to work as a builder's labourer, discarding his barrister's wig and gown for overalls.

As a lawyer, he was a laughing Rumpole. In front of a jury, he was unbeatable. His oratory, his wit, his sharp mind and disarming charm all combined to make him the criminal barrister, or should I say the barrister practising in criminal law, of his era. Like his father before him, who was similarly skilled, he was without peer. While magistrates and appeal courts were not as fond, juries were spellbound by his presentations. I recall personally briefing him on a matter. Despite repeated promises to meet with the accused, who was on remand, no meeting took place. On the day of the trial I observed the Crown papers were still in pristine condition, completely unopened and unread, which became cringingly obvious during the first day of the hearing, but there was no embarrassment for our Michael. I noticed how he speed-read the papers as the jury were being sworn and during the first day of the trial. Suffice to say, that first day I thought I could have done a better job. The second day was not quite as bad; on the third day we made some headway; and on the fourth day the jury acquitted. Of course, it was always a foregone conclusion to Michael: 'My boy, we were always going to win' rings in my ears, with that smile and glint in his eye. He was always one who was at his best when flying by the seat of his pants.

His appeals were not always as successful, including the one which he started by tendering a photo of the prisoner to the full bench with the words: 'This picture is not that of a criminal.' The appeals bench was not amused. His client was absolutely impressed and became a devotee for life, but not in that sense. Among the profession, we thought he engaged in these displays to ensure the bench unanimously campaigned for his re-election, as they would prefer to see him on the TV as a parliamentary representative rather than as a legal representative in their court room!

His legal skills and capacity were recognised by his vice-presidency of the Bar Association in Tasmania and his being appointed one of Her Majesty's Counsel in 1984. Such was his reputation and the respect for him that, if Michael Hodgman lost something, something was clearly wrong. I recall that the only complaint I ever had made against me to the Law Society of Tasmania was by one of Michael's clients, who was so affronted by the fact that a young whippersnapper lawyer got the better of him in a particular case—how on earth could that be allowed by the Law Society! But, more seriously, he was of the old guard. Pay him if you could; if you could not, he would catch up with you later—no drama.

I personally had the privilege of knowing Michael for nigh on 40 years, first through student political involvement, then as a fellow lawyer, his electorate chair and a fellow parliamentarian. As his electorate chair in the Liberal Party structure for a number of years, I was impressed by the huge number of nonmembers he was able to corral for letterboxing, erecting posters and booth-manning. His electorate involvement was highlighted in the death notices: the Baltic states—he rightly campaigned against their shameful incorporation into the Soviet empire by that weaselly Whitlam diplomatic jargon-du-jour recognition. He was recognised by the Polish Club, the Tasmanian Racing Club, the Hobart Greyhound Racing Club, the Carbine club, the Glenorchy RSL, the Tasmanian hospitality industry, even Senator Bushby's
beloved North Melbourne Football Club, the New Town Senior Citizens Club and of course, above all, by his beloved Royal Australian Naval Reserve, whose uniform he wore with great pride. And that is just to name a few of his interests. For him as a member of parliament, three functions a night was an absolute minimum.

In politics he said what he meant. He was pro-life, he was pro the monarchy, he was pro-independence for East Timor—another Whitlam government foreign affairs debacle—and, above all, he was staunchly anti-communist. His maiden speech was a full-blown attack on the ALP for its behaviour after the Dismissal, recalling he was elected in 1975. He got stuck into the Labor Party for boycotting the Governor-General’s opening of the parliament but then emerging for the lamingtons and cream puffs afterwards. He suggested the day be remembered as 'Lamingtons and Sour Grapes Day'. He spoke of his passionate belief that federalism was the answer to any attempted socialist republican takeover. I hope Michael was able to put in a postal ballot for the upcoming referendum.

It looks as though Labor's obsession with Building the Education Revolution is nothing new. He recounted in his first speech how in Denison two science laboratories were funded by the Commonwealth at two schools only 14 miles apart, but between the two schools there was only one science teacher. It seems history does repeat itself. Having condemned the then worst government in Australian history, he recounted the unemployment rate of 6.8 per cent in his home state of Tasmania. How Tasmanians wish our unemployment rate were there now, instead of having a seven in front of the figure. Having berated the previous government non-stop and drawing the ire of one Paul Keating, he disarmingly told the House: 'I honestly did not want to make a maiden speech in which I made an attack on the previous government.'

His time as a minister, Minister for the ACT and minister assisting the minister for industry, with Phillip Lynch, was clearly the highlight of his career personally. Before self-government, the Minister for the ACT was like a benevolent dictator, signing ordinances at will—like moving on demonstrators, designed of course to genuinely allow others the opportunity should they wish to occupy the space. He was surprised to learn that some, if not all, feminists hated him. He had just stopped Women Against Rape marching on Anzac Day through some obscure traffic ordinance. His response: 'I never said that extremist feminist groups, including Marxist lesbians, planned to disrupt the Anzac Day march. I merely said I had heard reports of their plans.'

Michael Hodgman was described as the type of parliamentarian for whom leaders publicly profess admiration but whom they privately abhor—a type often approved of by Australian voters. There is no doubt that Michael was overwhelmingly approved of by the Australian people. He was described as 'a mischievous political show pony' by the Leader of the Opposition in the Senate; but you will be pleased to know that that was way back in 1978 when somebody else held that post—namely, Senator Ken Wriedt.

Controversy and publicity were always courting Michael, or was it the other way around? It was difficult to tell, but the three were always in a strong embrace. In state politics his stoushes with the Labor Attorney-General were high entertainment. Her Majesty's loyal shadow Attorney-General for the state of Tasmania, to whom you referred, Deputy President, could so bait the then Tasmanian Attorney-General she
was once reduced to saying she simply 'hated Hodgmans'. The Greens leader at the time, who now leads the Greens in this place, was dubbed 'Christine and the Crazies'.

Apart from his active and capable advocacy on the issues of the day, he was a dab hand at achieving things for Tasmania and his seat of Tasmania: the Antarctic Division, the national marine science and research centre, the Commission for the Conservation of Antarctic Marine Living Resources, the Commonwealth law courts complex, the second Hobart bridge, the Christchurch to Hobart air link. Whenever he was accused of pork-barrelling he would simply clip the Hansard or the media story and ensure that it was circulated in Tasmania.

His passion and principle saw him cross the floor and be outspoken, but he could switch instantaneously from serious to fun. His sense of fun saw him convince the cabin staff on an airliner that his fast-asleep travel companion was in fact his mentally defective brother and to provide him with a colouring-in set should he awake. As he awoke, the member for Franklin could not quite come to grips with why a very sensitive stewardess was offering him a colouring-in set. Another time a colleague had got the better of Michael, so Michael drafted a media release, waltzed around to the colleague's office, slammed it on his desk and said that he at least was giving the colleague the courtesy of knowing exactly what he had said about him. The mortified colleague braced himself for the next day's papers, only to find that it was just a hoax.

He loved sport. Be it racing—horses and dogs—tennis, sailing, boxing or football he was into it. As the past president of the Geelong Football Club Frank Costa told me last week, Michael would ring him every year with a Hodgman slogan for the Cats for that particular year. The one that Mr Costa recalled was '2007 will be Cats heaven'. Regrettably, no slogan was offered for 2013.

It seems that everyone has a Hodgman story. He was a friend to all. No person or issue was of insufficient importance to be denied representation. He loved our flag, our monarchy, our Constitution and our institutions. He loved the Liberal Party, of which he was made a life member. He loved the jury system and the parliament. He loved his family. He loved life and lived it to the fullest. But above all he loved people, and he served them with distinction. The coalition mourns his passing and salutes his tireless service to our nation and its enduring symbols and institutions and to his state of Tasmania. The coalition extends our condolences to his family, knowing the best tribute we could pay Michael is by dedicating ourselves to the election of his son, Will, as a premier of a majority government of Tasmania on 14 March 2014.

Normally one would conclude a speech such as this with the words 'May he rest in peace'. I confess I have trouble visualising 'rest in peace' and Michael Hodgman. I suspect he has already discovered a gross injustice against which he is advocating before the ultimate judge. I will conclude with the words recorded in the Hansard of Michael Hodgman's last speech, which he finished as he finished most of his later speeches: God save the Queen!

The DEPUTY PRESIDENT (16:04): Senator Milne—on indulgence—could I ask that Senator Brandis go before you, as he has an urgent commitment. He only wants a few minutes. Is that possible?

Senator MILNE (Tasmania—Leader of the Australian Greens) (16:04): That is fine, although I also have things to do.

Senator BRANDIS (Queensland—Deputy Leader of the Opposition in the
Thank you, Mr Deputy President. I just wanted to take a few moments to offer my own words of tribute to my late friend Michael Hodgman, a member of the Order of Australia and one of Her Majesty's counsel learned in the law.

Michael Hodgman gave great service to the people of Tasmania and to the people of Australia in a parliamentary career that began almost half a century ago, in 1966, and ended as recently as 2010. During the course of that career he served in three parliamentary chambers: first in the Tasmanian Legislative Council, then as a member of the House of Representatives and ultimately as a member of the Tasmanian House of Assembly. As a member of the House of Representatives he served as a minister in the Fraser government.

It is hard, in this day and age, quite to grasp the extent of Michael Hodgman's courtly charm, because it was almost of another age. He was a man of rare eloquence, who could just as easily have been imagined as a cavalier in the 17th century or, indeed, as an Elizabethan courtier in the 16th century. The last time I saw him, at the Tasmanian Club a few years ago—we were having a drink, it will not surprise you to learn, Mr Deputy President—I thought to myself, looking at Michael's rather rubicund complexion and engaging him on the issues of the day, 'The founding fathers were probably just like this.' He was a parliamentarian through and through. He was passionate about the causes that he championed. He was a Liberal in the truest and best sense of the word, and a great upholder of traditions. My leader, Senator Abetz, has referred to his passionate commitment to the federal system, to the constitutional monarchy and to the flag. In his very last parliamentary job he sat on his son's opposition front bench as the shadow Attorney-General, and, in a way that only Michael Hodgman could do, he endorsed his business cards, 'Her Majesty's loyal shadow Attorney-General for the state of Tasmania.'

He was, in many ways, to Tasmania, what his great friend and boon companion in the seventies and early eighties, Sir James Killen, was to Queensland. They were very much of a piece. They were the sort of parliamentarians who practiced a political style in which eloquence in the parliamentary chamber was the great value. They were not glib. They did not engage in what are today called sound bites or grabs for the six o'clock news. They addressed the House of Representatives with an eloquence and in the grand manner with which Fox, Sheridan or Burke would have addressed the House of Commons two centuries before. I doubt we will see their like again.

Michael Hodgman was a very great Australian. He was a great friend to all who knew him. It is my privilege to number his son, Will Hodgman, among my friends. In regretting the passing of this extraordinary man, and celebrating such a rich life, I join with Senator Abetz in observing that the best tribute that there could possibly be to the beloved memory of Michael Hodgman would be the election of his son, Will, as the next premier of Tasmania.

I rise today to extend my condolence to the family of Michael Hodgman and to make just a few remarks. I only knew Michael in a parliamentary capacity when he returned to the Tasmanian House of Assembly having finished his career in the legislative council, then in the federal parliament.

I agree with Senator Brandis saying that he was like a person of another age. In many ways, that is the case. He never could come to terms with women's rights, he could never come to terms with gay rights, and he
struggled with many of the conservation issues of the day. I have to say that, in terms of the campaign for gay law reform in Tasmania, he was one of the people who were staunchly opposed to it.

His oratory at the time I will never forget because, in the Parliament of Tasmania, when I was speaking for decriminalisation of homosexuality—at that time you could be jailed for 21 years in Tasmania for being homosexual—Michael Hodgman got up and called me 'the mother of teenage sodomy'. Michael did it with great rhetorical flourish and it ended up on the five to eight news the following day.

Michael was quite capable of using such flourishes and did so on many occasions, which of course had earned him the reputation as the 'mouth from the south' when he had been in the federal parliament. But the remarks that Senator Abetz made earlier, in relation to a march on Anzac Day, go to similar sorts of remarks.

Having said that, he was quite a colourful character in the Tasmanian parliament. He had a number of uniforms behind the door in his office. One was a boxing referee's uniform; another was his naval uniform. Sometimes he would come into the parliament on the adjournment, obviously going to another function somewhere—he was well known for attending as many functions as he could in one day—wearing his naval uniform or the boxing referee uniform, which was of considerable amusement to colleagues in the parliament.

One of his greatest disappointments, while I was in the Tasmanian parliament, was that he expected to be the Speaker in the Liberal government in the mid-1990s. He had sent away for the full wig. This is in the context of saying that he was of a bygone era—he saw himself in the chair, not with just a small wig but with the whole wig. That was what Michael was expecting. Actually, the Liberal Party betrayed him at that time and he did not become Speaker. I think that was probably one of his great disappointments during that period in parliament.

He had in his office a framed photograph of Her Majesty the Queen and a framed photograph of the Pope. On many occasions he would refer to either or both in terms of the context of whatever speech he was making. Towards his later years he would resort to stories about Norton the cat. If any of you have heard Michael on that subject, you would know that Norton became a major focus of some of his speeches in the latter days.

But I have to say that he was also working at representing people in the courts while he was in the parliament in later years. One of his most famous actions in recent times was to become Chopper Read's best man. When Chopper Read was married, in the Tasmanian parliament Michael was his best man, and it is reputed that he told Chopper Read that getting married was one of the best ways to earn his release from Risdon Prison. I do not know if that is the case; that is reputed to be what Michael's advice to Chopper Read was at that time.

However, I knew him not only as a parliamentarian but also, as has been referred to, as a gentleman jockey. He had made many friends in the Tasmanian racing community and also in the riding community generally. One of his great friends, Geoff Cox, had a property, Springbanks, at Longford. Michael was a very great friend to Geoff in the years that Geoff's health was deteriorating. After Geoff's death, Michael also was very supportive of his widow, Alison, and I saw in those years the kind of loyalty and friendship that Michael had with the people with whom he had enjoyed many
recreational pursuits as well as had strong philosophical differences. Geoff Cox had become a Green, much to Michael's horror, and so Geoff used to write on the gate, when Michael was coming to visit, 'Milne' on one side and 'Brown' on the other; that would inspire Michael and Geoff to quite a degree of debate. But I have to acknowledge that the other side of Michael I saw in that period was the tremendous respect and effort he put into maintaining friendships and supporting the people who had supported and worked with him.

In addition to the uniforms he had behind the door—and people have referred to his love of the monarchy and, of course, the flag—he had a flag tie that he used to wear on significant occasions when it was warranted. He was a man of a different era in terms of many of the causes which he espoused. He was one for great flourish in terms of rhetoric. In spite of the insults which he dished out on regular occasions to his political opponents, he was funny and he was fair on most occasions. Whilst he was extremely critical and insulting, it was not of the nasty and rude variety. There was always some sort of flourish or laugh associated with the kinds of engagement that he entered into in the parliament.

I was sorry to see the deterioration in his health in recent times as he struggled with emphysema. I met him around Hobart on various occasions. He always met people with a smile and a joke. That is the thing that I will remember most about Michael—that he was a man who acknowledged everybody in the same way, and treated people equally, when he saw them in the street. He always had time to say hello, pass the time of day and smile, and he was proud to be a Tasmanian. He always spoke strongly about our state and the people in it. There is no doubt that he stayed alive as long as he did, as has been said, because he was hoping to be alive for next year's state election. That has not occurred; nevertheless, I am sure people will remember him in that context next year.

Senator COLBECK (Tasmania) (16:17): I rise to make my contribution in tribute to the life of Michael Hodgman AM QC—Michael, to most people. Senator Abetz chose an adjective to describe Michael. I have to say I really struggled because I am not sure that there is anything quite bold enough to do the job. He will be described in many ways for his colourful life, but he was, as Senator Milne just said, one of those people who always had a warm and hearty greeting for you. You always got the impression that he was pleased to see you, whether he was or not, even on the telephone.

I recall, when I was state president of the Tasmanian Liberal Party, being instructed by the state executive to have a conversation with Michael about how long he might remain in the Tasmanian parliament. There was some discussion about the fact that we might start a process of renewal. So good is the Tasmanian Liberal Party—like most others—at holding secrets that, when I rang Michael, I found that Michael knew I was coming. It is fair to say the conversation did not go well from my perspective. He was ready for me. He had every turn of phrase that he might have needed at hand, ready to run me with. Let's say it was fruitless. But the next time I met Michael he quickly discussed the conversation, and then we moved on. Michael had his reasons for doing what he wanted to do, and I have to say that, at the end of the day, those reasons proved to be sound and correct, and he achieved his objective. He finally decided to call it quits himself on his career in 2010.

The fact that he spent 44 years of his life in public service demonstrates how proud he
was of the roles that he undertook—in the Tasmanian upper house; in the federal parliament, in the House of Representatives; and in the Tasmanian lower house—and the fact that he saw public service as a positive duty, as a responsibility. He engaged with everybody in that context, as has been said here in the chamber. Whether in the front bar at the pub, in the RSL club, in the boxing ring as a referee, or here in the parliament, he always knew his place and his part and played that to the full. He was passionate about all of those roles.

He loved his family. A mention of his grandchildren would see him dive into his jacket pocket and pull out a wad of photographs to proudly display to you the progress of all the grandchildren. He was immensely proud of his son, Will, who, as we have discussed here today, is the leader of the opposition in Tasmania. I know that one of the things he would have liked to do was to see Will become Premier of Tasmania. I hope that that comes to pass in March next year. But I know he would have absolutely loved to have been able to hang out long enough to see that occur.

Within the Liberal Party organisation, he was also a really strong advocate for branches and the roles of branches. I recall, at the end of one of our three-day state councils one year, the time was one minute to 12. Everybody in the room looked as though they were ready to go home, because the council was to finish at 12 o’clock. So, as chair, I made the decision that we would not go onto the next motion. From recollection, it was about whether the Tasmanian native bird emblem should be changed. Michael was so affronted that one of the local branches which had taken the time to put a motion up to state council should lose their opportunity to have that motion debated, regardless of what it was, he roared into life. He said he did not care what kind of bird it was. He gave a very graphic example of a bird, which I will not give here today—but I could perhaps talk to people about it in private—because I do not think it appropriate to describe it in this context. You would not get away with it today. Needless to say, I surrendered. The council went on to debate whether or not the native bird emblem of Tasmania would be changed, and duly decided it would not, but the branch had had its opportunity to have its say, and that is what was important to Michael.

He was a fierce and fearful opponent, but at the end of the day he would come and have a beer with you. To see and hear of him passing of emphysema is a really tragic end to a vital, full and colourful life. My grandfather succumbed to the same disease and it is a cruel way to die. The fact that the dreaded smokes got Michael in the end is a real tragedy for all of us.

I want to make mention, and I have to a certain extent, of his passions. He loved his family, and I have said that, but he also loved his community. Senator Abetz talked about it. It was about the people. It did not matter who you were or where you were, his representation of people—legally, on a pro bono basis—is something that most people, who know Michael, know of. He loved his state. Reading through the notes that were prepared by the Parliamentary Library he talked about one thing that Tasmanians hated: people in Canberra making decisions about what should happen in Tasmania. I know that he felt that very strongly.

He also loved his country and was a strong believer in federalism. He loved his Queen. As Senator Brandis mentioned earlier, I am not sure I know anybody who could make an opposition position sound more important than the job in government. Her Majesty’s loyal shadow Attorney-General was how he described himself, with
great colour and flourish, and it sounded as though he was more important than the Attorney-General of the state of Tasmania. I am sure that is one of the things that irritated the Attorney in the battles they had across the chamber. And he loved the flag. We have heard the discussion about his passion for the flag and the ties that he wore in relation to that.

There was once a debate about replacing the lion on the Tasmanian flag with a Cape Barren goose. That suggestion was made by one of his Tasmanian parliamentary Liberal colleagues, the hard-working member for Lyons, Bob Mainwaring. Yes, the introduction takes us back. There was a fierce debate over that—the lion remains but Michael was affronted that somebody could suggest taking the lion off the Tasmanian flag in the first place, let alone replacing it with a Cape Barren goose.

It is appropriate that we celebrate Michael's life. He was a great pleasure to know. He was a great source of pride for his family and, as Senator Abetz said, he was known widely and broadly. I would like to join with others in expressing my sincere condolences to Lindy, his wife, and to Will and other members of the family. I just hope that Will does do what Michael hoped he would do—reach the premiership of Tasmania. But my sincere condolences to all of the Hodgman family. They have lost a great contributor to the Tasmanian community but also a great family member.

Senator BUSHBY (Tasmania—Deputy Opposition Whip in the Senate) (16.27): I too rise to mark my respect on the passing of one of Tasmania's greatest modern-era politicians, certainly one of the highest profile and best known to come out of Tasmania: past federal minister the Hon. Michael Hodgman AM QC.
unsuccessful shot at the federal seat of Denison in 1990, Michael decided to run for state parliament and in 1992 he was elected as the member for the state seat of Denison in the Tasmanian House of Assembly, a position that he successfully defended in the 1996 state election. He was subsequently a victim of the decrease in the size of the state parliament in 1998 but came back in again on a count-back in 2001 following the retirement of former state premier Ray Groom. He was then re-elected in 2002 and again in 2006.

Michael's impact has extended far beyond the boundaries of my great home state, however. Indeed, there are very few political observers across Australia who are not aware of Michael's work, his oratory and his passion for Australia and for its sovereign. Michael Hodgman was a politician of the old school and his time in politics saw him part of a momentous period in Australian history. He has known many of our nation and, for that matter, the world's leaders. Most famously, his oratorical skills combined with his strong parochial views earned him the title we have already heard this afternoon: 'the mouth from the south'. He had an incredible memory—an amazing ability to recall people's names, their backgrounds and issues that they might have brought up with him years earlier.

Whether it was his passion for the horses, his beloved football club, Geelong, the Navy, boxing or tennis, Michael always led an active and engaging life. He was a champion of many causes. He was resolute about the Indonesian presence in East Timor, to the detriment of his own career advancement in the Fraser government during the late 1970s. He was one of the first politicians to speak out vehemently against apartheid, when many others were conveniently looking the other way. He fought for the Huon naval base in Hobart, the retention of the historic Anglesea—

Senator Colbeck interjecting—

Senator BUSHBY: He certainly did, Senator Colbeck. Unfortunately, in the end it was a rearguard action. He fought for the retention of the historic Anglesea Barracks, the establishment of the Antarctic Division headquarters in Kingston, south of Hobart, and the CSIRO moving to Hobart. At many consecutive Liberal Party state councils, he successfully moved the motion 'that Tasmania should secede'. But he was also proud to be the Minister for the Capital Territory and, in that role, to be involved in the construction of this building and work closely with the chairman of the Parliament House Construction Authority, Sir John Holland.

Michael and his Canberra flatmate, Bruce Goodluck, who held the neighbouring seat of Franklin, were known at the time as 'the odd couple' and were well known nationally for their antics in seeking publicity—and sometimes those antics involved taking the micky out of each other. We heard earlier from Senator Abetz about one of those little tricks that was played by Michael on Bruce on a plane, but the reverse also occurred. Bruce Goodluck told a story where he bought some pink paper, sprinkled it with Chanel No. 5 and wrote on it: 'Dear Mr Hodgman, I have had my eyes on you since you first came to parliament. If you are interested, wear a red carnation. I usually frequent the press boxes.' Of course, the next day Michael was seen frequenting the press gallery boxes and wearing a red carnation.

But, behind the antics, Michael was a very serious and capable political advocate. Governments ignoring the outlying states and the regional seats did so at their peril. Michael was a ferocious fighter for what he believed in, such as tackling the Hawke
socialist government, states' rights, East Timorese freedom and immigration. He was known for his pressure on local issues such as speeding up the development of Hobart's southern outlet and lobbying for Hobart's second bridge, as well as international issues, including railing against the Soviet Union.

But, above all, he was best known for fighting for his beloved battlers. Many of Canberra's older residents would remember Michael's reign as Minister for the Capital Territory. At the time he was also known as 'the minister for opening doors', because if there was an opening occurring he would be there. In fact, press coverage at the time sometimes speculated whether Michael actually spent any time away from Canberra. When Michael was Minister for the Capital Territory, his departmental officials found him excellent at raising the profile of Canberra and of promoting the national capital, but sometimes the routine paperwork was neglected. After the ministerial in-tray had grown to the dimensions of a small mountain, one senior public servant, a Mr Dempster, suggested ever-so-mildly to the minister that he might want to deal with some of the submissions. Michael got on very well with Mr Dempster, so much so that he had given him a nickname, and he responded to the suggestion with, 'Look, Hamster, you worry about the paperwork and I'll worry about the politics.' I can clearly remember the notoriety Michael received from his comments that caused the leadership spill, which saw Andrew Peacock take the Liberal leadership from the then leader, John Howard. I am pretty sure that Mr Howard never quite forgave Michael for that.

There were also Michael's own leadership ambitions. At one point, he was widely reported as a potential leader of the Liberal Party and in one ballot finished only 12 votes behind John Howard for deputy leader. Michael was also touted as a potential leader in the Tasmanian parliament, but, despite putting his name forward, this was not to be. He was, however, a shadow state minister and, as we have heard today, he used to refer to his title with great flourish. I believe I still have one of his legendary business cards in which he, quite correctly, describes himself as 'the Hon. Michael Hodgman QC, Her Majesty's loyal shadow Attorney-General for Tasmania'. I imagine it might become a collector's item one day.

There is no doubt that Michael led a colourful career and life. That description is one I repeatedly found when first researching the topic. Even though he was colourful, he was deeply compassionate, seeking to deliver real outcomes from his constituents, for whom he held genuine affection and respect. Michael served Tasmanians and Australians with absolute dedication, often to the detriment of his life and time with the family that he loved deeply. I pass on my sincere condolences to Michael's family, particularly his children, Angela, Tori and Will, and their children. They are all very much entitled to be immensely proud of Michael, his achievements and his contribution to his state and his country. He was truly one of the greats.

Senator IAN MACDONALD (Queensland) (16:35): I also want to pay my respects to the family of the late Michael Hodgman and to join in the celebration of his life and the things he did for Australia and his state. My involvement with Michael, from the other end of the country back in the eighties, was slightly different to anything that has so far been described by other senators. I always think that loyalty is one of the greatest human qualities. Those who go the extra mile in prosecuting that loyalty, often at significant effort and cost to themselves, should, I think, never be forgotten.
My comments only make some sense if I set the scene of the period in politics in Queensland. It was in the middle to late 1980s, when in Queensland the Liberal and National parties were not quite as close to each other as they are now—of course, nowadays we are one big, happy family. But in those days, when Joh Bjelke-Petersen ruled Queensland as a National Party premier without the involvement or support of the Liberal Party, things were, for those of us in the Liberal Party in Queensland at the time, fairly cold. We often felt that we were friendless.

It was in the 1986 campaign that Bjelke-Petersen, as premier, was campaigning for re-election and was spending a significant amount of his time attacking the Liberal Party rather than the Labor Party. But to aid his campaign he actually had the Liberal Premier of Western Australia at the time, Sir Charles Court, and the Liberal Premier of Tasmania at the time, Robin Gray, come to Queensland and campaign for the National Party against the Liberal Party. So we at times felt quite friendless, particularly in North Queensland, because at the time there was no sitting Liberal member—state or federal—north of the city of Brisbane.

In the north we used to run quite energetic campaigns with very limited resources. We had a group of people who would travel almost to the end of the country to show their loyalty to the Liberal Party and to support the Liberal Party campaign. I mentioned recently in another meeting that Albie Schultz, the current member for Hume, was one of those. We were always delighted in the north when Michael Hodgman and his mates Bruce Goodluck and Max Burr would come to North Queensland.

I remember they came to Townsville on several occasions, once to Cairns and once to Mackay. It was, as Senator Bushby said, at the time that Michael Hodgman and Bruce Goodluck were known as the odd couple. Max Burr came in. They had a name; I think it might have been 'The Three Amigos'. I clearly remember to this day that they came and did an almost burlesque comedy and dance show at what was then the dinner comedy theatre in Townsville. The owners at the time gave us the theatre for the night. These three ran the dinner comedy show as a fundraiser for the Liberal Party. As well as all of Michael's other qualities—which everyone has talked about and on which I, from a knowledge of him, cannot help but agree and agree very strongly—his stage show with Bruce Goodluck and Max Burr was something else. They were great friends when they did not need to be. They had come from the other end of the country just to help their Liberal Party colleagues run election campaigns and try and raise some money. Those days and thoughts, I am sure, are long since gone.

I, for one, and those of us who were involved at that time will never forget the kindness, commitment and loyalty of Michael Hodgman and his two colleagues in what they did for us. It is something that can only be the work of someone who has a deep commitment to the things he believes in and a great loyalty to his causes and the principles and philosophies close to him. I extend my condolences to Will Hodgman, who I know. I do not know the rest of the family but I do extend my condolences to Will and all of his family on the passing of a great Australian.

The DEPUTY PRESIDENT (16:41): I also endorse and support the comments made by senators here in the chamber today. I first crossed swords with Michael in the late seventies and early eighties as a prosecution witness when he was a defence counsel. I have had 30-plus years of knowing and enjoying Michael's company since then.
I also endorse our sympathies to Michael's family, in particular his three children and his five grandchildren. I think it is beholden upon us as time marches on that we share our colourful stories about Michael with his grandchildren as we encounter them in years to come.

I ask honourable senators to stand in their places to signify our consent to the motion and, whilst we do that, could I suggest that maybe, if it were quietly playing in the background, *God Save Our Queen* would be very appropriate.

Question agreed to, honourable senators standing in their places.

**PETITIONS**

The Clerk: Petitions have been lodged for presentation as follows:

**Doctor Shortages in Colac**

To the Honourable President and members of the Senate in Parliament assembled:

The petition of the undersigned shows our support for Colac to be classified as a District of Workforce Shortage by the Gillard Labor Government.

There are major difficulties in recruiting medical practitioners to Colac and District because Colac is not a District of Workforce Shortage by the Gillard Labor Government.

Your petitioners ask that the Senate calls on the Gillard Labor Government to take immediate action to remedy doctor shortages in Colac by classifying Colac as a District of Workforce Shortage.

By Senator Ronaldson (from 3,161 citizens)

Petition received.

**Support for the Retention of Existing Australian National Flag**

To the Honourable the President and Members of the Senate in Parliament assembled: The petition of the undersigned shows:

We believe that the current flag has served Australia well and will continue to do so in the future and represents a true manifestation of the Nation's history. Your petitioners request that the Senate:

Oppose any change in the design or colour of the AUSTRALIAN NATIONAL FLAG.

By Senator Ronaldson (from 4 citizens)

Petition received.

**Torquay Postal Service**

To the Honourable President and members of the Senate in Parliament assembled: The petition of the undersigned shows our support for the urgent overhaul of postal services in Torquay. Torquay's only post office is under pressure and struggling to service the town's growing population. Australia Post is required to meet various performance standards in accordance with the Australian Postal Corporation Act.

Your petitioners ask that the Senate demands that Minister Stephen Conroy, who has portfolio responsibility for Australia Post, and the Gillard Labor Government urgently intervene to ensure that Torquay receives improved postal services.

By Senator Ronaldson (from 1,201 citizens)

Petition received.

**NOTICES**

**Presentation**

Senator Birmingham to move:

That the time for the presentation of the report of the Environment and Communications References Committee on extreme weather events be extended to 10 July 2013.

Senator Colbeck to move:

under section 370 of the Environment Protection and Biodiversity Conservation Act 1999, be disallowed. [F2013L00425]

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

Senator Colbeck to move:


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Senator Colbeck to move:


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

Senator Singh to move:

That the Senate—

(a) commends the Government for taking action to protect Australians from asbestos and continuing to lead the world in trying to eliminate deadly asbestos-related diseases;

(b) notes the establishment of the new National Asbestos Exposure Register in the wake of community concerns after asbestos was found in Telstra pits in four states during the rollout of the National Broadband Network;

(c) acknowledges the response from Telstra to ensure all workers are trained in the removal and handling of asbestos located in its pits; and

(d) recognises the historic legislation to implement the National Strategic Plan for Asbestos Awareness and Management by:

(i) establishing the Asbestos Safety and Eradication Agency, which will be dedicated to working with all states and stakeholders to create a nationally consistent approach to the eradication, handling of awareness of asbestos,

(ii) working to develop a public awareness campaign to highlight the dangers of asbestos,

(iii) implementing a prioritised removal program across Australia, and

(iv) playing a leadership role in the global campaign for a worldwide asbestos plan.

Senator Milne to move:

That the Senate notes

(a) climate change is still the greatest moral, economic and social challenge of our time; and

(b) the Coalition’s Direct Action Plan, which was announced before the last election in 2010, still has not received public support from a single Australian economist or industry group.

Senator Ludlam to move:

That the Senate—
(a) notes that:

(i) on any given night more than 105,000 Australians are experiencing homelessness, including 7,000 people sleeping rough or without adequate shelter,

(ii) homelessness has risen in Australia overall by 17 per cent between 2006 and 2011, and in 2012 more than 136,800 instances for a request for assistance went unmet, and

(iii) the Leader of the Opposition (Mr Abbott) refuses to commit to the goal of the Homelessness White Paper to halve homelessness by 2020 and provide services to all those seeking them; and

(b) calls on:

(i) the Liberal Party to commit to the goal to halve homelessness and provide services to all seeking them by 2020, and

(ii) all parties to commit to support for a new national partnership on homelessness to at least 2020 in order to provide the services and housing necessary to help Australians in most urgent need.

Senator Waters to move:

That the Senate—

(a) notes that coal seam gas mining threatens our land, our water, our communities and our climate; and

(b) calls on all parties to commit to not approving any more coal seam gas developments in Australia.

Senators Siewert, Di Natale and Heffernan to move:

That the Senate—

(a) notes the recent ruling by the United States Supreme Court that human genes are not eligible for patent protection;

(b) recognises that this ruling is a significant development in the debate over gene patenting and the future of medical research; and

(c) urges the Australian Government to consider the implications of this for the Patents Act 1990.

Senator Xenophon to move:

That Civil Aviation Order 48.1 Instrument 2013, made under subregulations 5(1), 5.5S(1) and 215(3), and regulation 210A of the Civil Aviation Regulations 1988, subregulation 11.068(1) of the Civil Aviation Safety Regulations 1998, section 4 and subsection 33(3) of the Acts Interpretation Act 1901, and paragraph 28BA(1)(b) and subsection 98(4A) of the Civil Aviation Act 1988, be disallowed. [F2013L00628]

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

Senator Xenophon to move:

That all items in Schedule 1, except for item 12, to the Carbon Credits (Carbon Farming Initiative) Amendment Regulation 2013 (No. 1), as contained in Select Legislative Instrument 2013 No. 77 and made under the Carbon Credits (Carbon Farming Initiative) Act 2011, be disallowed. [F2013L00800]

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

Senator Rhiannon to move:

That there be laid on the table, by the Minister representing the Attorney-General, no later than noon on Thursday, 27 June 2013, the report of the review into the operation of the Freedom of Information Act 1982 and the Australian Information Act 2010 and the government response to the review.

Senator Di Natale to move:

That the Senate—

(a) notes:

(i) the low vaccination rates in certain parts of Australia, and the threat this poses to the health of Australian children, and

(ii) the irresponsible campaign run by the Australian Vaccination Network (AVN), which is spreading misinformation about the risks of vaccination and discouraging parents from vaccinating their children; and

(b) calls on the AVN to immediately disband and cease their harmful and unscientific scare campaign against vaccines.

Senator Ludlam to move:

That the following matter be referred to the Environment and Communications References Committee for inquiry and report by 30 June 2014:
The benefits and risks of the uranium mining industry and the adequacy of federal regulation of the sector, including:

(a) the extent and means through which the findings of the October 2003 Senate inquiry that the uranium sector is characterised by a pattern of underperformance and non-compliance, an absence of reliable data to measure the extent of contamination or its impact on the environment and an operational culture that gives greater weight to short-term than long-term considerations have been addressed;

(b) an assessment of the wide variance in predictions of future growth estimates of uranium exports and nuclear power;

(c) an assessment of the adequacy of Australian standards and responsibilities in supplying uranium to Japan and the Tokyo Electric Power Company [TEPCO] where demonstrably inadequate regulation was evident;

(d) the Government’s efforts to address recommendations and issues raised in the September 2011 United Nations (UN) system-wide study on the implications of the accident at the Fukushima Daiichi nuclear power plant;

(e) an assessment of the adequacy of environmental practices, including security fencing and warning signs to prevent access to land and waters contaminated by exploration and mining activities;

(f) an assessment of the adequacy of worker and community health and safety at uranium mine sites;

(g) the impacts, benefits and costs of uranium mines for Aboriginal people;

(h) an assessment of whether the exemptions for the uranium industry from Aboriginal heritage, environment and water legislation are necessary or justifiable;

(i) the preparedness and resourcing of regional emergency contingency planning for accidents and incidents, including education and training services;

(j) an evaluation of the frequency and severity of transport and handling accidents and the process of issuing and auditing compliance with transport radiation management plans;

(k) the performance and scope of the Australian Safeguards and Non-Proliferation Office, including its capacity to fulfil its role with current human and budgetary resources;

(l) the proliferation risks associated with a policy of programmatic open-ended permissions for reprocessing Australian uranium rather than a case-by-case policy;

(m) an assessment of the compliance of Australian uranium companies operating overseas with regard to occupational health and safety and environmental standards and laws; and

(o) other relevant related matters.

Senator Milne to move:

That the Senate—

(a) welcomes the World Heritage listing of the extension to Tasmania’s Wilderness World Heritage area decided at the World Heritage Committee meeting of the United Nations Educational, Scientific and Cultural Organization [UNESCO] on 24 June 2013;

(b) supports the values of Australia’s World Heritage listed areas and the provision of adequate funding to maintain their natural and cultural values; and

(c) calls on the Federal Government to ban logging in any World Heritage area in Australia.

Senator Milne to move:

That the following bill be introduced: A Bill for an Act to amend the Commonwealth Electoral Act 1918, and for related purposes. Commonwealth Electoral Amendment (Leaders’ Debate Commission) Bill 2013.

BUSINESS

Rearrangement

Senator KROGER (Victoria—Chief Opposition Whip in the Senate) (16:44): by leave—On behalf of the Chair of the Rural and Regional Affairs and Transport References Committee, Senator Heffernan, I move:

That business of the Senate order of the day no. 2 relating to the presentation of the report of the Rural and Regional Affairs and Transport References Committee on the Foreign Investment
Review Board national interest test be postponed to a later hour.

Question agreed to.

COMMITTEES

Finance and Public Administration Legislation Committee

Meeting

Senator McEWEN (South Australia—Government Whip in the Senate) (16:44): by leave—On behalf of the Chair of the Senate Finance and Public Administration Legislation Committee, Senator Polley, I move:

That the Finance and Public Administration Legislation Committee be authorised to meet during the sitting of Senate today, otherwise than in accordance with SO33(1).

Question agreed to.

NOTICES

Postponement

The following item of business was postponed:

General business notice of motion no. 1243 standing in the name of Senator Madigan for today, proposing the introduction of the Health Insurance Amendment (Medicare Funding for Post-Operative Care for Illegal Organ Transplants) Bill 2013, postponed till 26 June 2013.

MOTIONS

Food Security

Senator RHIANNON (New South Wales) (16:45): I seek leave to amend general business notice of motion No. 1272, standing in my name for today, relating to food security.

Leave granted.

Senator RHIANNON: I move the motion as amended:

That the Senate—

(a) notes that:

(i) Oxfam Australia recently released a report titled, Grow: Getting big results from small scale agriculture,

(ii) the report found that:

(A) small-scale food producers play a critical role in global food production,

(B) 80 per cent of the world’s hungry people are involved in food production as small-scale producers, including small scale farmers, fishers, forest foreagers and landless labourers, and

(C) small scale producers go hungry because they often lack access to the markets, land, financing and credit facilities, infrastructure, farmer training services, storage facilities and relevant technology enjoyed by large farms, and

(iii) in 2013-14, the Australian aid program will invest around $411 million in programs that will improve access to food for millions of people across Africa, Asia and the Pacific; and

(b) calls on the Australian Government to consider increasing aid to food security by 2016, and prioritising aid to small scale food producers.

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

The Senate divided. [16:50]

Ayes .......................... 36
Noes .......................... 27
Majority..................... 9

AYES

Bilyk, CL
Brown, CL
Carr, KJ
Di Natale, R
Faulkner, J
Turner, ML
Hanson-Young, SC
Lines, S
Lundy, KA
Marshall, GM
McLucas, J
Moore, CM
Pratt, LC
Siewert, R
Stephens, U
Thorp, LE
Waters, LJ

Bishop, TM
Cameron, DN
Crossin, P
Farrell, D
Feeney, D
Gallacher, AM
Hogg, JJ
Ludlam, S
McGahan, JJ
McEwen, A (teller)
Milne, C
Polley, H
Rhiannon, L
Singh, LM
Sterle, G
Urquhart, AE
Whish-Wilson, PS
Monday, 24 June 2013

CHAMBER

AYES
Wright, PL
Xenophon, N

NOES
Back, CJ
Bernardi, C
Boswell, RLD
Boyce, SK
Bushby, DC
Cash, MC
Colbeck, R
Eggleston, A
Fierravanti-Wells, C
Heffernan, W
Kroger, H (teller)
Mason, B
Parry, S
Ronaldson, M
Ryan, SM
Sinodinos, A
Williams, JR

Question agreed to.

Senator WILLIAMS (New South Wales—Nationals Whip in the Senate) (16:52): Mr President, I seek leave to make a short statement.

The PRESIDENT: Leave is granted for one minute.

Senator WILLIAMS: I want to make a point on this motion of Senator Rhiannon’s, regarding food security and small-scale food producers, whether they be overseas or in Australia: what about the large-scale beef producers in Australia? This government made such a mess of their industry. What support is being shown to them? It is just incredible what has happened to the beef industry—the decimation of the beef industry—especially at the Top End. We used to export 750,000 live cattle to Indonesia. That has now been reduced to 200,000. Those cattle are now flooding south abattoirs, decimating the beef price.

The Greens were the ones who wanted to ban the whole live export industry. Senator Rhiannon makes no secret of that. They say they are concerned about food security, but the Greens have had all the power in the states and have been shutting up more food-producing land into national parks. Do not come into this place and talk about food security when obviously you campaigned for the opposite.

DOCUMENTS
Pollution Reduction Program
Order for the Production of Documents

Senator RHIANNON (New South Wales) (16:54): I move:

That there be laid on the table by the Minister representing the Minister for Infrastructure and Transport, by 27 June 2013, all documents relating to the production of the report, Pollution Reduction Program 4.2 Particulate Emissions from Coal Trains, dated May 2013, prepared for the Australian Rail Track Corporation (ARTC) by Katestone Environmental Pty Ltd, from 1 July 2012 until present, including correspondence between the ARTC and the Minister, the department, the New South Wales Environmental Protection Authority and the report consultant.

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

The Senate divided. [16:56]

(The President—Senator Hogg)

Ayes ...................... 11
Noes ...................... 50

Majority ............... 39

AYES
Di Natale, R
Ludlam, S
Milne, C
Siewert, R (teller)
Whish-Wilson, PS
Xenophon, N

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

NOES
Abetz, E
Bernardi, C
Bishop, TM
Boyce, SK
Bushby, DC

Back, CJ
Bilyk, CL
Boswell, RLD
Brown, CL
Cameron, DN
(b) calls on the Federal Government to:
(i) ensure that the entirety of the $10 million in funding is used for dialysis related purposes, and
(ii) be more flexible in its negotiations with state and territory governments and other stakeholders.

Question agreed to.

COMMITTEES
Privileges Committee
Appointment

Senator MILNE (Tasmania—Leader of the Australian Greens) (16:59): I ask that general business notice of motion No. 1288 standing in my name for today, proposing an amendment of standing order 18, be taken as a formal motion.

The PRESIDENT: Is there any objection to the motion being taken as formal?

Honourable senators interjecting—
The PRESIDENT: There is an objection.

NOTICES
Withdrawal

Senator FARRELL (South Australia—Minister for Science and Research and Minister Assisting on Tourism) (17:00): I withdraw government business notice of motion No. 2 standing in the name of Senator Collins.

MINISTERIAL STATEMENTS
Defence

Senator FARRELL (South Australia—Minister for Science and Research and Minister Assisting on Tourism) (17:00): On behalf of the Minister for Defence, Mr Smith, I present a ministerial statement and report on the Defence Abuse Response Taskforce.
AUDITOR-GENERAL’S REPORTS

Report No. 51 of 2012-13


BILLS

Constitution Alteration (Local Government) 2013

Explanatory Memorandum

Senator FARRELL (South Australia—Minister for Science and Research and Minister Assisting on Tourism) (17:01): I table an addendum to the explanatory memorandum relating to the Constitution Alteration (Local Government) 2013.

COMMITTEES

Community Affairs Legislation Committee

Additional Information

Senator McEWEN (South Australia—Government Whip in the Senate) (17:02): On behalf of the Chair of the Community Affairs Legislation Committee, Senator Moore, I present additional information received by the committee on its inquiry into the provisions of the Aged Care (Living Longer Living Better) Bill 2013 and related bills.

Legal and Constitutional Affairs Legislation Committee

Education, Employment and Workplace Relations Legislation Committee

Report

Senator McEWEN, (South Australia—Government Whip in the Senate) (17:03): On behalf of the chairs of the Legal and Constitutional Affairs Legislation Committee and the Education, Employment and Workplace Relations Legislation Committee, I present reports on the Migration Amendment (Temporary Sponsored Visas) Bill 2013 and the Australian Education Bill 2013 and a related bill, together with the Hansard records of proceedings and documents presented to the committees.

Ordered that the reports be printed.

Foreign Affairs, Defence and Trade Joint Committee

Report

Senator McEWEN (South Australia—Government Whip in the Senate) (17:03): On behalf of the Joint Standing Committee on Foreign Affairs, Defence and Trade, I present the report on the inquiry into slavery, slavery-like conditions and people trafficking. I seek leave to move a motion in relation to the report.

Leave granted.

Senator McEWEN: I move:

That the Senate take note of the report.

I seek leave to have the tabling statement incorporated in Hansard.

Leave granted.

The statement read as follows—

JOINT STANDING COMMITTEE ON FOREIGN AFFAIRS, DEFENCE AND TRADE

Trading Lives: Modern Day Human Trafficking

Tabling Speech

Senate

24 June 2013

Mr President, on behalf of the Joint Standing Committee on Foreign Affairs, Defence and Trade, it gives me great pleasure to present the Committee’s report on Australia’s efforts to
address slavery, slavery-like conditions and trafficking in persons.

Trafficking in persons, slavery and slavery-like practices is an egregious violation of an individual's human rights. Trafficking and slavery victims are exploited physically, emotionally and mentally and the effects of this trauma can be long lasting and destructive.

There are an estimated 20 million victims of forced labour globally. The annual profit made from these victims is estimated at 32 million US dollars. That is a profit of thirteen thousand dollars US for each woman, man and child trafficked into forced labour.

Nationally, Australia can provide greater support for victims of trafficking. The Committee recommends that suspected victims of trafficking be provided an initial automatic reflection period of 45 days with two further extensions of 45 days if required and that the Australian Government further investigate the establishment of a federal compensation scheme for victims of slavery and trafficking in persons.

Internationally, Australia can increase its engagement on this important issue. The Committee recommends that the Australian Government continue to participate in international mechanisms focussed on eliminating people trafficking such as the United Nations Human Rights Council's Universal Periodic Review.

To combat trafficking in global supply chains the Committee recommends that the Australian Government investigate anti-trafficking and anti-slavery mechanisms appropriate for the Australian context with a view to creating a greater awareness of forced labour in global supply chains.

Question agreed to.

Privileges Committee Report

Senator BACK (Western Australia—Deputy Opposition Whip in the Senate) (17:04): I present the 153rd report of the Committee of Privileges, entitled Guidance for officers giving evidence and providing information, together with evidence presented to the committee.

Ordered that the report be printed.

Senator BACK: I seek leave to move a motion in relation to that report.

Leave granted.

Senator BACK: I move:

That the Senate take note of the report.

I seek leave to continue my remarks later.

Leave granted; debate adjourned.

Privileges Committee Report

Senator BACK: I seek leave to move a motion in relation to that report.

Leave granted.

Senator BACK: I move:

That the report be adopted.

Question agreed to.

Cyber-Safety Committee Report

Senator BILYK (Tasmania) (17:05): I present the report of the Joint Select Committee on Cybersafety on its inquiry into Cybersafety for Indigenous Australians.

Ordered that the report be printed.

Senator BILYK: I move:

That the Senate take note of the report.

During the course of the 43rd parliament the Joint Select Committee on Cybersafety conducted two extensive inquiries, one relating to cybersafety and young people and the other relating to cybersafety and senior Australians. Following completion of those
inquiries, it was agreed that issues surrounding cybersafety for Indigenous Australians warranted further investigation.

Although the committee had very little remaining time available to conduct an in-depth inquiry into these issues, it has conducted a brief investigation to identify the particular issues Aboriginal and Torres Strait Islander people might be facing with cybersafety. Given the limited timeframe, the committee did not call for submissions for this inquiry from the general public but it wrote to several Australian government departments and authorities and several Indigenous organisations in the Northern Territory to notify them of the inquiry and to invite brief submissions.

The committee found that many Indigenous Australians who live in remote areas have internet access issues and therefore these Australians are at particular risk of being left behind as the majority of Australians gain internet access and go online. This is of concern to the committee because evidence gathered during its previous inquiry into cybersafety for senior Australians strongly suggested that in the immediate future Australians without access to the internet or without the skills to use the internet will become an increasingly disadvantaged group in society.

The committee visited two schools in Brisbane to discuss concerns about cybersafety with their Indigenous students, and the committee found that, as with other young people in the community, mobile phones are a valuable communication tool for Indigenous youth. Smartphone technologies can provide Indigenous people with important links to family and community, especially when they have to move for school, training or work. At the same time, mobiles allow for a 24-hour cycle of a cyber intrusions which can lead to breaches of privacy and conflict both verbal and physical. The Australian Communications Consumer Advocacy Network told the committee that its research shows that where coverage is available mobile phones are the preferred communications device for many Aboriginal and Torres Strait Islander people and therefore most cyberbullying in the Indigenous community is likely to occur through the use of mobile phones. The committee's discussion with students from the Southside Education Centre in Sunnybank and the Aboriginal and Islander Independent Community School in Acacia Ridge confirmed that. The discussions with students at both schools were very informative and useful and we were grateful for the time afforded to us by the principal of each school and by teachers and students.

The committee found that another key issue affecting cybersafety for adult Indigenous Australians is that many have low levels of digital literacy skills and therefore they may lack the ability to either use the internet themselves or to supervise their children's internet use adequately. Additionally, the committee heard that many older Indigenous people have low levels of English literacy, which impacts on their ability to gain digital literacy skills.

The report I am tabling today briefly discusses the issues that the committee found to be relevant to cybersafety for Indigenous Australians. In so doing, the committee has concluded that a longer, more in-depth investigation into all aspects of internet and communications technology use as it relates to Aboriginal and Torres Strait Islanders by a committee in the 44th parliament would be appropriate.

I would like to express my thanks to my colleagues on the committee and to the deputy chair in the other place, and of course
to the secretariat for their enthusiastic dedication to this inquiry and to all the inquiries the Joint Select Committee on Cyber-Safety has undertaken while I have been chair. I commend the report to the Senate.

Question agreed to.

Foreign Affairs, Defence and Trade Joint Committee

Report

Senator FURNER (Queensland) (17:09): On behalf of the Joint Standing Committee on Foreign Affairs, Defence and Trade, I present the report of the inquiry into the care of ADF personnel wounded and injured on operations. I seek leave to move a motion in relation to the report.

Leave granted.

Senator FURNER: I move:

That the Senate take note of the report.

On behalf of the Joint Standing Committee on Foreign Affairs, Defence and Trade, I present the report entitled Care of ADF personnel wounded and injured on operations.

For the last 15 years, Australia’s defence forces have been almost continuously involved in major operations in the Middle East, East Timor and the Solomon Islands. They have also been involved in a great number of other operations in the Asia-Pacific and further afield. Unfortunately, not all those that have deployed on operations have returned, and some that have returned have done so with wounds and scars, not all of which are necessarily visible. Some wounds and scars are hidden deep within their bodies and minds. The committee welcomed the opportunity presented by this inquiry to consider the treatment in theatre of personnel wounded and injured, as well as their repatriation to Australia, ongoing care, rehabilitation and return to work or, if necessary, transition out of the Defence Force.

We were honoured to have the opportunity to talk to wounded and injured servicemen, hear their stories and listen to their concerns. Their stories were profound and in some cases disturbing—it was incomprehensible how someone's body could sustain such injuries. We spoke to various agencies, both government and non-government, that support veterans and have identified opportunities to improve services provided to veterans. We looked at some of the perceived or actual barriers preventing veterans' full access to support services. We delved deeply into the concerns related to post-traumatic stress disorder and other mental health issues facing veterans. We received some very compelling evidence from a number of witnesses. We also explored the importance of the involvement of the families of our wounded and injured in their healing, and we considered the support available to the families themselves. With the recent increased awareness of the effects of depression, anxiety disorders, substance abuse and indeed PTSD amongst our veterans, and concerns about suicide rates of current and former service men and women, the inquiry was particularly timely.

Australia’s national identity in large part is formed around the courage and sacrifice of our uniformed services, from the beaches of Gallipoli to the mountains and deserts of Afghanistan. The modern veteran has, in common with the shell-shocked or maimed digger of World War I, or the Vietnam veteran, the right to the best support and services that Australia can provide. The committee considers that, for the most part, the care provided to Australians wounded and injured is world class. This is certainly true of the first aid received in the immediate aftermath of a battlefield incident. The Department of Defence and the Department...
of Veterans' Affairs have honoured their responsibilities to support the recovery and rehabilitation of these individuals and their families and, through various programs, continue to improve veteran support processes and coordination. Unfortunately, for various reasons, some veterans still appear to fall through the cracks. This has to end.

We have developed a series of recommendations to ensure a more comprehensive rehabilitation process for the physically wounded; that all forms of mental health issues in our service, ex-service and veteran communities are fully understood and supported; and that communication and coordination between all agencies involved in the support of our veterans, government and non-government, are optimised. The Department of Defence and the Department of Veterans' Affairs particularly must continue to improve communication and coordination. Far too many veterans miss out on support to which they are entitled. The compensation and entitlement process itself must be simplified; barriers to accessing existing services for female veterans must be removed; veteran identification and tracking within the health system must be improved; access to health care should be fully uncontested; and research into the needs of the veteran community should be a priority, particularly with regard to mental health issues and suicide.

Since 1999, over 45,000 Australians have seen operational service overseas, and the support provided to this new cohort of veterans must learn from the lessons of the past and continue to be improved into the future. The committee wants to highlight that 20 per cent of the veterans of recent conflicts may get PTSD at some point in their lives and that as many as 50 per cent of service men or women can expect to have some form of mental health disorder at some point in their life—not necessarily a wave of sadness but certainly something we as a nation must prepare for.

In the course of the inquiry, the committee had the opportunity to travel to a number of cities and meet individuals and organisations that support Australian veterans. The committee thanks them and everyone else involved for their contributions. Importantly, the committee was honoured to meet representatives of those who have put themselves in harm's way in the defence of our nation's values and are carrying scares as a result. The committee salutes each and every one and thanks them for their candour.

The committee considers that the implementation and recommendations of the Joint Standing Committee on Foreign Affairs, Defence and Trade's report, *Care of ADF personnel Wounded and Injured on Operations*, will improve on the support systems that our wounded and injured veterans deserve. Finally, I note the 253 soldiers and sailors injured in Afghanistan and remember the 40 who have not returned. Lest we forget.

**Senator FAWCETT** (South Australia) (17:15): I also rise to take note of the Defence subcommittee of the Joint Standing Committee on Foreign Affairs, Defence and Trade inquiry into care for wounded soldiers. I wish to thank the Department of Defence but particularly the servicemen and women who, in some cases, allowed us into a fairly intimate part of their lives and talk with them about the treatment they received. I wish to note the significant investment in advances the Defence department, particularly Army, has made in the area of caring for wounded soldiers.

The 3 Brigade commanders, particularly, sponsored and personally intervened and made resources available for the operation of the soldier-recovery centres. It is an initiative
that has clearly paid off for the servicemen, women and families who have been affected, and I commend them for that. South Australia's 7RAR has serving men and women and RAAF Base Edinburgh has its RAAF servicemen and women. I encourage Defence not to forget to support the networks that are there in South Australia and the good work that is done for veterans. It should provide the same kind of support it does for soldier-recovery centres in the other 3 Brigade Headquarters areas in South Australia.

The issues of post-traumatic stress, depression, anxiety and, in some cases, alcohol abuse that has accompanied the wounds of some of these soldiers have received a significant increase in attention, which is very pleasing to see. These sometimes take a period of time to surface. In the culture we have—and we saw this from a number of young servicemen who said that they wanted to continue to serve with their mates—soldiers suppress pain from physical injuries and pain and relational issues that come from mental-health injuries so that they can go on further rotations. Some of these issues will take time to come out. So my plea for the community and particularly for the Defence department, as we move beyond the period of conflict, is for the focus to continue and develop so that families and those who have served have the opportunity to put their hands up and receive the same kind of focused help that we are getting for those servicemen and woman right now, during the conflict.

The last point I make is for DVA. I recognise that they have made a number of steps forward, particularly to work with Defence, in the smoother and more effective transition for servicemen and women who have to leave the service because of injury, but we are still seeing a number of people who have left the service without identifying that they have a medical problem—and that surfaces some years down the track. Many of them are still going through a harrowing experience. I have had correspondence from a number of them. One man and his wife were quite open about the fact that this has put an incredible stress on their marriage and family. And DVA, at the end of a two-year process, has finally said, 'Yes, you were right. You are entitled to everything you have asked for.' That should not be

Someone who has served their country and been wounded as a consequence, whether in terms of mental health or physical wounds, should get support far more quickly. If we are still putting servicemen and their families through a two-year process that is causing them unnecessary angst, then that is still not good enough. We need to continue to work to improve that system of assessing and recognising claims. We had some interesting suggestions. Susan Neuhaus, a surgeon in South Australia who has a long service history herself, came up with some quite different suggestions around a continuum of Commonwealth care and the ability for somebody to receive care through DVA if they are a veteran, regardless of the status of their claim.

I would commend the departments, both DVA and Defence, to look carefully at the recommendations and put the resources into the modelling that was requested in terms of the true cost of that to the Commonwealth. Veterans need to be able to put their hand up and say, 'I need care' and then receive care on a continuous basis, with a focus on the best interests of themselves and their families. If we get that outcome from this report, it will have been a few months very well spent. I commend the report to the House and I seek leave continue my remarks.

Leave granted; debate adjourned.
Intelligence and Security Committee Report

Senator FAULKNER (New South Wales) (17:21): On behalf of the Parliamentary Joint Committee on Intelligence and Security, I present the report of the committee on its inquiry into potential reforms of Australia's national security legislation, and I move:

That the Senate take note of the report.

In May 2012, the then Attorney-General, Nicola Roxon, asked the committee to inquire into a package of potential reforms to Australia's national security legislation. The committee was provided with a discussion paper outlining the reforms the government wished to have the committee consider. The committee was tasked with examining potential reforms to:

- modernise lawful access to communications and communications data;
- mitigate the risks posed to Australia's communications networks by certain foreign technology and service suppliers; and
- enhance the operational capacity of Australian intelligence community agencies.

The terms of reference contained 18 reform proposals, involving 44 specific items.

Importantly, the context for the committee's inquiry included the serious challenge presented by new and emerging technologies to agencies' intelligence gathering capabilities.

The committee received 240 submissions. Three submissions were received in largely identical terms from some 5,300 individual members of the public. These submitters expressed opposition to the reforms, particularly to a mandatory data retention regime.

The committee was faced with several difficulties. The terms of reference were wide ranging and canvassed some of the most complex and significant reforms to national security legislation ever to come before the parliament.

The absence of detail in the discussion paper concerning mandatory data retention also significantly impaired both public discussion and the committee's consideration of that issue.

Despite these challenges, the committee has produced a comprehensive and unanimous report.

The committee has made 43 recommendations. I will highlight three of them.

First, the committee recommends that the Telecommunications (Interception and Access) Act should be comprehensively revised, with the objective of designing an interception regime which is underpinned by clear privacy protections, provisions which are technology neutral, maintenance of investigative capabilities, clearly articulated and enforceable industry obligations, and robust oversight and accountability which supports administrative efficiency.

Second, to respond to the decline in interception capability caused by technological developments and countersecurity measures, agencies should be empowered to conduct telecommunications interception on the basis of specific attributes of communications.

Third, the committee recognises that there are occasions on which ASIO officers are placed in positions where, in order to carry out their duties, they may need to engage in conduct which may breach the criminal law. To permit this, the committee recommends
that the Australian Security Intelligence Organisation Act be amended to create an authorised intelligence operations scheme.

These recommendations, along with the others in the report, include proposals for detailed safeguards and accountability measures.

A critical proposal the committee examined was mandatory data retention; that is, a regime which would potentially require telecommunications companies to retain communications data, such as subscriber details, for a specified period of time.

In the committee’s view, ultimately, whether or not to introduce a mandatory data retention regime is a decision for government. However, the committee has taken account of the substantial and serious concerns about this proposal that have been presented to it.

The committee is of the view that no such regime should be enacted unless privacy and civil liberties concerns are adequately addressed, and that an exposure draft of any legislation should first be referred to the committee for examination.

The committee outlines a number of specific features and safeguards it believes any draft legislation should incorporate. These include that any data retention regime should apply only to metadata and exclude the actual content of communications, and that internet browsing data should be explicitly excluded.

The issue of the establishment of a mandatory data retention scheme is very controversial. There are widely divergent views in the community about it and I expect those differences will be reflected within political parties and the parliament. Unsurprisingly, those differences existed within our committee.

The PJCIS has a strong tradition of attempting to reconcile differences and bring down unanimous reports.

Since its establishment the committee has produced 50 reports with only one dissenting report.

All committee members wanted to avoid signing a dissenting report, but I stress: to achieve unanimous recommendations on so controversial an issue as mandatory data retention required hard work and goodwill from all committee members.

The committee does not recommend the establishment of a mandatory data retention scheme—as I have said, we make clear such a recommendation should come from the government.

But, the committee does propose the features and safeguards such a mandatory data retention regime should have if one is to be legislated in Australia.

I acknowledge that this debate will be affected by the recent controversy surrounding leaks by Mr Edward Snowden in the United States of America.

Although these leaks occurred after this report was finalised, the committee sought and received a briefing from the heads of ASIO and ASD in relation to the US PRISM activities.

We should be very clear here. The regime under which metadata and warranted content data is accessed is different in Australia to that which applies in the USA.

Nevertheless, these revelations will heighten anxiety in this country about data retention.

We must ensure none of our citizens is surprised if and when our intelligence, security and law enforcement agencies use their legislated powers.

We must ensure any legislation to establish a mandatory data retention scheme
in Australia contains the strongest safeguards to protect the privacy of our citizens.

Our challenge will be to achieve the right balance between the safety and security of our citizens, and their personal rights and freedoms, including the right to privacy, if a proposal for a mandatory data retention scheme goes forward.

Senator JOHNSTON (Western Australia) (17:31): I want to support the remarks of Senator Faulkner. The committee, in carrying out the Attorney-General's request, was confronted with a number of difficulties. The terms of reference were extraordinarily wide. The lack of draft legislation and the emergence of technology to analyse and collect data electronically means that we virtually have a tiger by the tail. The lack of such draft legislation or any details of some of the potential reforms was very difficult for this committee to deal with.

One of the most controversial topics was, as Senator Faulkner has indicated, data retention. Data retention and management give very high powered computing technology the ability to produce, very quickly, clear and concise answers to intelligence questions. The Attorney-General did not provide a great deal of assistance and neither did her department. That meant that submitters to the inquiry could not be sure what they were being asked to comment on—the moving feast of technology and all of these methodologies were not specifically laid out.

Second, the committee was not sure of the exact nature of what the Attorney-General and her department were proposing. The committee was effectively flying blind to some extent and guessing at where this sort of technological progression was going to lead. Once it commenced its inquiry the committee became very disconcerted, as the report indicates, by the fact that the Attorney-General's Department was found to have much more detailed information, particularly about data retention, than was initially understood. The departmental work, including discussions with stakeholders, had been undertaken previously. Details of this work had to be drawn from witnesses representing the Attorney-General's Department. That is unsatisfactory and of concern.

It took until 7 November 2012 for the committee to be provided with a formal complete definition of which data was to be retained under the data retention regime proposed by the Attorney-General's Department. I will be brief, because Senator Faulkner, quite properly, has set out the main concerns of the committee with respect to this matter. The section concerning data retention attracted a large amount of criticism, and for good reason. People in their day-to-day lives generate an enormous amount of material that can be categorised as data. It can be stored. It can be re-referenced and cross-referenced. It can be used in ways that not many people can contemplate.

There was criticism from organisations and individuals. The organisations generally considered any potential data retention regime a significant risk to the security of their information and to their privacy, which is very understandable and quite proper. The concerns can be grouped as follows: privacy and civil liberty concerns; security concerns; feasibility and efficacy concerns; and cost concerns. The last one is the one that I am most concerned with. In the sphere of national security, the collection and retention of data is very important. The analysis of that data is crucial. The storing of data is an extremely expensive proposition. The protocols surrounding such data need to be spelled out very quickly so that cost-effective protocols can be established.
Without going on, this report had enormously broad terms of reference. I want to pay tribute to the secretariat of the committee for how they dealt with the request of the then Attorney-General. It was nebulous and difficult. This is the forerunner of a very significant report analysing matters that will concern Australians into the future. It highlighted some of the concerns on each side of the ledger, such as how we should better manage data from a national security perspective and with respect to people's privacy. It looked at issues of cost and other issues of ethics and protocol surrounding such data. These are very crucial future questions. I would like to think that this parliament, this committee and, indeed, Australia generally can lead the world in the way we deal with this material and the protocols surrounding the collection of such data. These are very crucial future questions.

I will not go on, because Senator Faulkner has said more important things. He participated in the committee to a greater extent than I did. But having lived and breathed with some of these matters when I was Minister for Justice and Customs, the use of CCTV in the future in this country is also all about the storage, management and ethical management of data, which is the background context of the matters contained in this report. I commend the report to the Senate.

Senator LUDLAM (Western Australia) (17:38): I rise on behalf of the Australian Greens to add some comments on the tabling of this report. With the crossbench position on this committee held by Mr Wilkie, the Greens were not represented on the committee, but nonetheless this is a policy area I have followed very closely since it was referred to the committee in the first place. It is actually something I have been pursuing since 2009. This is the second turn of the wheel on this policy. This data retention proposal has been pursued by the Attorney-General's Department through successive ministers. It bobs up every couple of years, and I know this will not be the last time it does. It provokes the kind of outrage that this committee has quite ably documented and then goes back below the surface again in search of an Attorney-General who is willing to try to pull it off. This is the second time we have seen this occur just in the short period of time I have been in this chamber.

The Australian Greens welcome a number of the elements in this report and I want to congratulate the committee secretariat and those who have done the work across the very broad range of the terms of reference. The committee was quite right to push back on the demand to decide for the government on its vague, amorphous data retention proposal. The committee also quite rightly calls for the Telecommunications (Interception and Access) Act to be overhauled from the ground up. That is something the Greens would strongly support.

However, there are other areas of recommendation here that we do not support. As usual, ASIO has been given nearly everything it was after in terms of expansion of powers. Also, the criminalising of encryption is, I think, a dangerous escalation of the encryption and decryption arms race. It is an area we would want to think very carefully about before we pursue this. Making it unlawful for a service provider or a private citizen not to hand over encryption keys, I think, takes us somewhere we need to be very careful about before we go there.
I look forward to hearing some of the reactions from the telecommunications providers, who were dragged into secret meetings, which would not have been disclosed were it not for a whistleblower who, in 2009, went to the *Sydney Morning Herald*—which then disclosed that the Attorney-General had called these closed meetings, demanding that industry tell the Attorney-General's Department what it would cost and what kind of protocols would be required for a two-year data retention proposal.

I want to acknowledge former Attorney-General Nicola Roxon, who copped a lot of heat for this proposal, for at least having the good sense to flip it to a committee where it could be examined in daylight. Also, I acknowledge the extremely strong language, unanimously on behalf of the committee, rebutting the Attorney-General's Department's vague proposal for a data retention scheme, and the fact that they had to extract the nature of the scheme itself because the Attorney-General's Department was so reluctant to admit exactly how much work had been done behind the scenes.

This report sets down on paper a partial and conditional victory but one that we should acknowledge, nonetheless, for the many thousands of people who participated in the process and those in the wider community who expressed their dissent one way or another—people who care about the maintenance of their human rights, online and offline, and people charged with protecting those rights whether it be through law enforcement, as civil libertarians or as plain old-fashioned libertarians. I also acknowledge the Law Society, Liberty Victoria, the Human Rights Law Centre and the Castan Centre, those custodians of legal custom and practice whom we hope would spring to the defence of the rights that were proposed to be abolished. There were also some unusual allies. It is rare for the Australian Greens to line up shoulder to shoulder with the Institute of Public Affairs—rare does not do it justice, actually. Nonetheless, in this instance the Australian Taxpayers Alliance and the IPA are strident in their condemnation—their highly articulate and consistent condemnation—of the proposals here. Then there are the online digital libertarian activists, researchers and campaigners, including Electronic Frontiers Australia and our colleagues in the Pirate Party, who in many ways have led the debate behind the scenes and in public—for example, in a series of detailed freedom of information requests, which was the only way we were able to discover the long-running series of meetings—which were denied in an extraordinarily evasive series of estimates exchanges that I had with the secretary of the Attorney-General's Department in here only a few weeks ago. From this we know for a fact that this proposal was well underway. The committee was not told; it had to go and discover this for itself.

I had a somewhat disconcerting conversation with Mr Wilkins, Secretary of the Attorney-General's Department, during estimates. I was told there were some rather vague draft positions and that a few chats and conversations had been had, and it was nothing to do with data retention, and at no stage was legislation in the process of being drafted. I have since put in a freedom of information request to actually try to get clarity on this, because information released under the FOI Act to Mr Brendan Molloy of the Pirate Party included a number of documents relating to the Attorney-General's Department's secret consultations with telecommunications and internet industries between 2009 and 2012. In October 2012, Logan Tudor, a legal officer with the department, wrote that he had decided the
draft national security legislation was exempted from being released under FOI because it contained material that was being deliberated on inside the department.

The documents available on the excellent Right to Know website reveal that the Attorney-General’s Department was well advised in preparing a regulatory impact statement on the proposal, and in fact had begun preparing one as far back as 2009. The preparation of an RIS, which must be signed off by what we now know as the Office of Best Practice Regulation and which includes a best estimate of the likely and very significant financial impacts described by the telcos, is a key step before a proposal goes to cabinet. These documents indicate that the government knew all along that the AGD was engaged in developing detailed proposals for data retention and workshopping them with industry, and had in fact initiated the formal process of drafting legislation. That is the detail to which I go in the Freedom of Information Act.

So this proposed culture of transparency, which was heralded with some fanfare, has never really materialised and it is like extracting teeth trying to find out what the Attorney-General’s Department is actually up to. Strong language in this report quotes the Victorian Privacy Commissioner, Dr Anthony Bendall, who submitted that data retention was characteristic of a police state—extraordinarily strong language from the Victorian Privacy Commissioner. And a number of advocates right across the board, from industry and the other organisations identified there, have gone through asking exactly why these powers are required in the first place. In the context of the various campaigners and concerned citizens who put up their opposition to this proposal, I would not say it has been condemned outright, because the committee tries to be even-handed in pursuit of tabling a unanimous report. But it certainly does not, as Senator Faulkner has indicated, recommend that such a scheme passes. The report has identified a number of caveats, cut-outs, carve-outs, conditions and procedures that it considers would need to be minimum requirements if any such scheme were to be legislated. It is not exactly a glowing endorsement.

I understand that the Attorney-General, in the other place earlier today, stood and said, ‘We will not be legislating for data retention at this time.’ This has been set to rest and neutralised as an election issue, which is precisely what Minister Conroy did in an earlier form of the internet filter before the 2010 election, and has been neutralised as a political issue. I predict that if there is a new Attorney-General post-election, or even if there is not, this proposal will come back; I have absolutely no doubt about that whatsoever. It will be exhumed in a different form, with a few of the committee’s recommendations attached, and it will be back. And it is a proposal I suspect will have to be fought and contested, potentially, again and again.

We need to pay very careful attention to what has happened in the United States. The only issue I have with Senator Faulkner’s contribution—when he said that the regime under which metadata and warranted content data are accessed is different in Australia compared with the United States—is that US legislators by and large had no idea what the National Security Agency was doing under the Patriot Act on the orders of this secret court, which had absolutely no obligations to report to the public at all. I wonder how much Australian legislators, in hindsight, will be able to say they knew about how these powers were being applied in Australia, either warrantless accessing of data by agencies like ASIO and DSD or the wholesale importing of content and non-content data from colleagues in the US...
national security establishment—sideways, and basically bypassing such due processes as identified in here.

I seek leave to continue my remarks at a later time.

Leave granted; debate adjourned.

Privileges Committee

Report

Senator HUMPHRIES (Australian Capital Territory) (17:48): by leave—I incorporate into Hansard the tabling statements for two reports of the Committee of Privileges. I apologise that I was not here earlier to do that when the reports were tabled.

The statements read as follows—

Mr President, I present the 153rd report of the Committee of Privileges, entitled Guidance for officers giving evidence and providing information.

Mr President, in 2010, the Senate Foreign Affairs, Defence and Trade References Committee, as part of its inquiry into events on HMAS Success, reported concerns about directives (known as 'DEFGRAMS') requiring ministerial approval of Defence involvement in parliamentary committees and clearance of all material to be provided to committee inquiries by Defence personnel.

The references committee was concerned that the DEFGRAMS had the potential to interfere with witnesses appearing before its inquiry. The DEFGRAMS themselves referred to guidance contained in the government guidelines for official witnesses before parliamentary committees and the references committee recommended an inquiry into the adequacy of the government guidelines.

The current guidelines have been in place since 1989. The main purpose of the inquiry was to assess the adequacy and appropriateness of the guidelines and how well they assisted officials in understanding their rights and obligations when appearing as witnesses before parliamentary committees.

In many ways this purpose has been overtaken by the preparation of a proposed new version of the guidelines. The Department of Prime Minister and Cabinet provided a supplementary submission last year containing proposed revised guidelines, and indicated its intention to finalise them after the committee reports.

Rather than dwell on the 1989 guidelines, the committee instead took the opportunity to assess how well the proposed revised guidelines dealt with the matters which prompted the inquiry. The committee also assessed the revised guidelines against other matters of Senate practice and procedure. In doing so, the committee was assisted by the submissions made by a number of other people and organisations, all of whom I'd like to thank.

The committee welcomes the revision of the guidelines and thanks the department for providing the revised guidelines and for the opportunity to comment on them. They represent a substantial improvement on the 1989 guidelines, both in scope and in content.

Recognising that the guidelines provide the main source of government advice to officials about their interactions with Senate committees and, more generally, with the Senate, the committee looks forward to their implementation. The committee also trusts that the other sources of advice and guidance referred to in submissions to the inquiry will then be updated to take into account the revision of the government guidelines and the commentary in this report.

Mr President, I present the 154th report of the Committee of Privileges, entitled Persons referred to in the Senate—Ms Deborah Hegarty and Mr Peter Ross Hegarty.

That the report be adopted.

This report is the 64th in a series of reports recommending that a right of reply be afforded to persons who claim to have been adversely affected by being referred to in the Senate, either by name or in such a way as to be readily identified.

On 20 June 2013, the President received a submission from Ms Deborah Hegarty relating to a speech made by Senator Furner during the adjournment debate on 14 May 2013. The
President referred the submission to the committee under Privilege Resolution 5.

The committee considered the submission at its meeting on 20 June 2013 and recommends that the proposed response be incorporated in Hansard.

The committee reminds the Senate that in matters of this nature it does not judge the truth or otherwise of statements made by honourable senators or the persons referred to. Rather, it ensures that these persons' submissions, and ultimately the responses it recommends, accord with the criteria set out in Privilege Resolution 5.

Gambling Reform Committee

Report

Senator CAROL BROWN (Tasmania—Deputy Government Whip in the Senate) (17:49): On behalf of the Joint Select Committee on Gambling Reform I present the report of its inquiry into the Poker Machine Harm Reduction ($1 Bets and Other Measures) Bill 2012, the Anti-Money Laundering Amendment (Gaming Machine Venues) Bill 2012 and the Interactive Gambling Amendment (Virtual Credits) Bill 2013, together with the Hansard record of proceedings and documents presented to the committee.

Ordered that the report be printed.

Rural and Regional Affairs and Transport References Committee

Report

Senator BACK (Western Australia—Deputy Opposition Whip in the Senate) (17:49): On behalf of the Chair of the Rural and Regional Affairs and Transport References Committee I present an addendum to the report of the committee on its inquiry into the Auditor-General's reports on the Tasmanian Forestry Grants Program.

Ordered that the addendum be printed.

Senator RUSTON (South Australia) (17:50): by leave—I would like to comment on the previously tabled report in relation to the Tasmanian Forestry Grants Program. Administration of this program was a responsibility of the Department of Agriculture, Forestry and Fisheries, and it was an exit program. The purpose of the program was to assist the Tasmanian native forest industry to adjust to an industry downturn and to reduce the amount of native forest harvesting through voluntary exit. Up to $3 million was made available to contractors wishing to exit the industry. All applications were to be assessed by a panel from the Department of Agriculture, Forestry and Fisheries; the Department of Sustainability, Environment, Water, Population and Communities; and the Tasmanian government. The basis of these assessments was a merit score and a set of assessment criteria. In February 2012, $44 million worth of grants were approved by this panel.

An extraordinary amount of concern was expressed in the time since then in relation to the granting or approval of these grants, particularly of the grants that were approved, and how the process was administered. And this was not just concern expressed through the Rural and Regional Affairs Transport Committee. The Auditor-General, through the Australian National Audit Office, also expressed a huge amount of concern about the actual application and administration of these grants. In particular, I draw the house's attention to the fact that the recommendations of the ANAO were that there was a need to improve the quality and transparency of grant assessment processes for future grants programs; that the Department of Agriculture, Forestry and Fisheries should reinforce its obligation to manage programs in accordance with approved program guidelines and the Commonwealth grant guidelines; and that it was important to retain documentation to
appropriately evidence the assessment of grant applications and decisions made. The ANAO also recommended that to enhance the transparency of future grants programs the Department of Agriculture, Fisheries and Forestry advise applicants of any significant changes to the methods used to determine grant funding offers and assessment processes outlined in the program's guidelines. Finally, to monitor compliance with the terms and conditions of funding, the ANAO recommended that DAFF prepare compliance strategies and determine the basis for funding for ongoing compliance and incorporate compliance obligations into program guidelines and funding agreements. They are not light matters that have been raised.

This program was obviously designed for positive reasons to assist those in the industry to exit from the marketplace. However, it ended up as somewhat of a debacle. It pitted contractor against contractor. It pitted contractor against the environmental movement. Concern was expressed not just by the forestry industry. Across the whole of Tasmania a huge amount of concern was expressed about the way this particular grant program was administered. It painted the Tasmanian forestry industry in a bad light, which was totally unnecessary and very, very unfair. We saw a situation where grants were given to people who may not necessarily have met the guidelines. There were people who were unsuccessful in getting grants simply because the guidelines were not necessarily administered in the way they should have been administered. It was very obvious from the committee's inquiry into this that there was a lack of consultation and that the guidelines were terribly unclear. So it made it very difficult for those legitimate people who wished to avail themselves of this mechanism to leave this industry. It had obviously been identified that there was a need to reduce the amount of activity in this industry. It just did not seem that this exit package was administered in a fair and reasonable way so that all of the contractors and all of the members of the industry in Tasmania who should reasonably have been able to have equitable access to this program did have that luxury.

There was a lot of money involved in this program. One hundred million dollars of taxpayers money has been allocated to this exit program for the Tasmanian forest industry. As I said, $44 million of it was allocated in February 2012. That is a lot of money to put into a community. In the case of Tasmania—given that we have a federal election in September and then a state election in March next year—there is a lot of concern expressed about how this money is going to be used and whether it is actually being used for the purpose that it was originally designed, which was so that the Tasmanian forestry industry could exit, particularly, from native forest harvesting, or whether it is just being used as a method to get money into Tasmania to try and shore up seats for the government. It is certainly a very large bucket of money to be sloshing around in Tasmania. The concerns of the Australian National Audit Office were reiterated in the findings of the rural and regional affairs and transport committee's investigation into the Tasmanian forestry grants program. I seek leave to continue my remarks.

Leave granted; debate adjourned.
place from 8 to 13 April 2013, and I seek leave to move a motion to take note of the document.

Leave granted.

Senator IAN MACDONALD: I move:

That the Senate take note of the document.

In view of the time constraints I will later seek leave to incorporate a speech containing the delegation report. I wanted to make a few additional comments to what will be in the official report. This was an important delegation to a foreign country, but it is—as I often say of PNG—a country which is just five kilometres across the sea from my electorate of the state of Queensland and from the electorate of Leichhardt, held by Mr Entsch in the federal parliament. Mr Entsch; Mr Ewen Jones from Townsville in the electorate of Herbert; Mrs Jane Prentice, the member for Ryan; and I all have a very big interest in PNG because of its closeness to Queensland. The trade and business operations between Queensland and PNG and, indeed, the health issues are relevant both to PNG and to the adjoining Torres Strait Islands and Cape York of Queensland. So this delegation was particularly important and timely. It was led—I might say, very well—by Ms Sharon Grierson, and it included Mrs Jane Prentice, who I have mentioned, and Mr Mike Symon. Our delegation secretary was Stephanie Mikac, and I particularly thank the secretariat for the work they have done in presenting this report.

Drug-resistant TB is a huge issue in PNG and it is also something that is of particular interest to Australia. As our closest neighbour, PNG is a country that we have to support. It is the only other country in which Australia has ever had a colonial administration, and, of course, the ties between Australia and PNG are very close. I often think we do not give PNG the significance and importance it deserves as a nation to which we have a special obligation and a special friendship. It is one of Australia's largest aid recipients and received approximately $500 million in development assistance last financial year.

The delegation had a very busy round of meetings with a wide range of people in PNG including government officials, senior government ministers, other politicians and members of various parliamentary committees. The interaction between the Australian parliament and the PNG parliament was useful to both and I think it was conducive to building further relationships between the two parliaments. I am delighted to say that, since the delegation went to PNG, the Speaker of the PNG parliament has made a visit to the Australian parliament, and that, again, was very useful in building the relationship. My statement, which I will incorporate, highlights some aspects of the report. I want to briefly mention the visit by the committee to both the Bomana War Cemetery, one of the biggest Australian cemeteries of the Second World War—and it was an honour to lay a wreath there—and the Lae War Cemetery.

I was very impressed with the work that an Australian, Sir Mick Curtain, is doing at Motukea in PNG by creating a new port. He is building a dry-dock which will take two Panamax ships at the same time. There is a paucity of dry-docks along the east coast of Australia and, because of the number of ships that pass from the Pacific Ocean through the Torres Strait between Papua New Guinea and Australia on their way to maintenance and repair in Singapore, this operation at Motukea in Port Moresby by Sir Mick Curtain is a great initiative and one that will bring value and jobs to PNG locals. The work being done training young people in trades is very impressive. Indeed, throughout the whole of our visit we saw some very
good things being done with education and technical training across a range of areas.

I want to also particularly mention the Lae City Mission, which has a compound just outside Lae and is undertaking marvellous things by providing basic education—reading, writing and arithmetic—to some young people who do not have parents. The young people have never had any sort of education at all and, therefore, are not in a position to work at even the meanest jobs. The Lae City Mission has a proud record because any of the kids who have been at the mission are almost guaranteed of getting a job after two years. The only means of livelihood for most of the kids is to steal, rob, rape and in some cases murder, which has been their life until they go into the mission and, after a couple of years, come out as good citizens. There are a number of different organisations doing the same thing in PNG, but we were particularly impressed with the Lae City Mission.

We were in PNG after the general elections and, certainly, the government seems to be very stable at the present time. The ministers all seem to have a very good handle on their work. The fact that there is a 30-month moratorium on any no-confidence motion in the parliament of PNG does seems to have brought stability to a parliament that did, until recently, have a reputation for instability. That was very pleasing to see.

The mineral wealth of the country is quite obvious. We had a look at the ExxonMobil site and they are helping the PNG people with developing it. There is a lot of other wealth in PNG and, if it is properly managed, it can really make a huge difference to the people of PNG, our closest neighbours.

It was a privilege to have been in the delegation. I know I speak for all of the participants in the delegation in saying what a wonderful exercise it was, how much we felt the benefit of our meetings with people in PNG and how we all hope that this parliamentary delegation is just another step on the path towards much closer and more mutually beneficial relationships between our country and the nation of Papua New Guinea. I commend the report and seek leave to incorporate a tabling statement in Hansard.

Leave granted.

The statement read as follows—

Parliamentary Delegation to Papua New Guinea

Monday, 24 June 2013
Delegation Report
Senator the Hon Ian Macdonald, Deputy Delegation Leader

Mr President, I present the report of the Parliamentary Delegation to Papua New Guinea.

From 8 to 13 of April this year as the Deputy Delegation Leader I participated in the Parliamentary delegation to Papua New Guinea. The purpose of the visit was to allow Australian parliamentarians to engage with the parliament of Papua New Guinea around issues of mutual importance to our longstanding relationship. With Papua New Guinea being one of Australia’s largest aid recipients having received approximately $493.2 million in official development assistance this financial year, the delegation also wished to engage with stakeholder organisations and representatives to learn more about the current state of economic and social development in Papua New Guinea and to be informed specifically about programs being delivered in Papua New Guinea by AusAID. As the delegation’s visit took place in the lead-up to Anzac Day, the delegation also laid wreaths at the Bomana and Lae War Cemeteries.

The delegation visited the capital, Port Moresby and Lae, the capital of the Morobe Province. At both locations, the delegation met with Government officials, business representatives, and local service providers, in addition to engaging in tours of major
infrastructure. Matters discussed during these meetings and tours included: the broader trade, investment and aid program between countries, financial transparency, immigration, parliament-to-parliament assistance, further developing the

The Australian Government is continuing to work with the Government of Papua New Guinea to improve health, education and training, administrative, and law and order outcomes, which in the longer term are expected to yield positive economic results for Papua New Guinea. The delegation believes that progress could be assisted by increased strategic government funding into health and education services and into programs to improve the skill base of its people.

Importantly, the delegation also heard about the work being undertaken to assist victims of gender based violence by one of the eight Family and Sexual Violence Units established across Papua New Guinea as a result of funding from the Australian Government under the Papua New Guinea Australia Law and Justice Partnership.

In addition, programs to assist in supporting victims of family and sexual violence and programs to assist in women's empowerment are expected to improve societal attitudes and meet global development goals.

There is currently a high level of foreign investment in Papua New Guinea which is expected to make a sustained positive impact on the economy and which the Government of Papua New Guinea is best placed to divest by establishing mechanisms for national wealth sharing.

I would like to thank all those who gave their time to meet with the delegation to discuss issues of mutual interest to Australia and Papua New Guinea. I would also like to thank Her Excellency Deborah Stokes Australian High Commissioner to Papua New Guinea, Ms Margaret Adamson, Deputy Head of Mission and High Commission and AusAID officers who assisted and accompanied the delegation during its visit to Papua New Guinea.

Mr President, I commend the report to the Senate.

Question agreed to.

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**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._

**BILLS**

Tax Laws Amendment (Fairer Taxation of Excess Concessional Contributions) Bill 2013

Superannuation (Excess Concessional Contributions Charge) Bill 2013

_First Reading_

Bills received from the House of Representatives.

_Senator JACINTA COLLINS_ (Victoria—Manager of Government Business in the Senate and Parliamentary Secretary for School Education and Workplace Relations) (18:07): I move:

That these bills may proceed without formalities, may be taken together and be now read a first time.

Question agreed to.

Bills read a first time.

_Senator JACINTA COLLINS_ (Victoria—Manager of Government Business in the Senate and Parliamentary Secretary for School Education and Workplace Relations) (18:07): I move:

That these bills may proceed without formalities, may be taken together and be now read a second time.

Question agreed to.

_Bills read a second time._

**Second Reading**

_Senator JACINTA COLLINS_ (Victoria—Manager of Government Business in the Senate and Parliamentary Secretary for School Education and Workplace Relations) (18:07): I move:

That these bills be now read a second time.

I seek leave to have the second reading speeches incorporated in _Hansard._

Leave granted.
The speeches read as follows—

TAX LAWS AMENDMENT (FAIRER TAXATION OF EXCESS CONCESSIONAL CONTRIBUTIONS) BILL 2013

This bill amends various taxation laws to implement a range of improvements to Australia's tax laws.

The legislation we are introducing today will make the taxation of excess contributions fairer.

Currently, excess contributions above the concessional contributions cap generally are taxed at the top marginal tax rate—46.5 per cent—regardless of an individual's income. This is a severe penalty for low and middle income earners.

In contrast, individuals on the top marginal rate effectively face no penalty and benefit from being able to pay their tax on excess contributions later than normal income tax.

The changes contained in the legislation will enable excess concessional contributions to be included in an individual's taxable income and allow them to be taxed at the individual's marginal tax rate regardless of their income or the cause of the breach. A non-refundable tax offset of 15 per cent will be provided to individuals to account for the income tax paid by their fund.

The changes will apply to contributions made on and after 1 July 2013.

In addition, individuals will be allowed to withdraw any excess concessional contributions from their superannuation provider.

These changes will make the superannuation system fairer.

It is estimated that this reform will reduce the tax liability of around 40,000 low and middle income earners in 2013-14, by around $1,100 on average.

Full details of the measure are contained in the explanatory memorandum.

SUPERANNUATION (EXCESS CONCESSIONAL CONTRIBUTIONS CHARGE) BILL 2013

This Bill will make the taxation of excess contributions fairer and make some common sense changes to the Costello Excess Contributions tax arrangements.

The Bill will enable excess concessional contributions made from 1 July 2013 to be taxed at an individual's marginal tax rate regardless of the individual's income or the cause of the breach.

Excess contributions above the concessional contributions cap are currently taxed at the top marginal tax rate — 46.5 per cent — regardless of an individual's income.

The Bill will allow those who exceed the concessional contributions cap to choose to withdraw the excess contribution without penalty should they wish.

This Bill will impose a new interest charge — the excess concessional contributions charge — to individuals who exceed their concessional cap.

This charge is designed to account for the income tax that would otherwise have been paid earlier on these amounts had they been taken as salary, wages or profits.

In contrast, individuals on the top marginal rate effectively face no penalty and benefit from being able to pay their tax on excess contributions later than normal income tax.

This will make the taxation of excess contributions fairer.

Full details of the measure are contained in the explanatory memorandum.

Debate adjourned.

Tax Laws Amendment (2013 Measures No. 3) Bill 2013

First Reading

Bill received from the House of Representatives.

Senator JACINTA COLLINS (Victoria—Manager of Government Business in the Senate and Parliamentary Secretary for School Education and Workplace Relations) (18:08): I move:

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

Question agreed to.

Bill read a first time.
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 various taxation laws to implement a range of improvements to Australia's taxation laws.

Schedule 1 amends the Tax Agent Services Act 2009 to ensure that entities that provide tax agent services in the course of giving advice of a kind that is usually given by a financial services licensee or a representative of licensees are subject to the regulatory regime of the Tax Practitioners Board.

These are important consumer protection amendments to ensure the appropriate regulation of all forms of tax advice, irrespective of whether it is provided by a tax agent, a BAS agent or an entity in the financial services industry.

These reforms have been subject to extensive consultation with industry. On 6 June 2013, the amendments were also referred to the Parliamentary Joint Committee on Corporations and Financial Services. The Committee delivered its report on 17 June and recommended that Parliament pass the amendments.

Throughout this process, we have listened to the concerns of the financial services industry. The Government will also undertake further consultation on whether it is necessary to amend the Tax Agent Services Regulations 2009 to ensure the Regulations align with the Government's intent that the following services should not constitute tax agent services:

- tax advice provided by a superannuation fund or pension fund pursuant to the issuance of a payment summary;
- services provided by a superannuation fund's representatives pursuant to 'intra-fund advice' provisions;
- advice provided by an insurer pursuant to payments of income protection or salary continuance insurance payments and corresponding issue of payment summary and advice therein; and
- services provided by responsible entities of managed investment schemes to the scheme.

Schedule 2 also amends the Tax Agent Services Act 2009 to correct a range of technical issues.

Schedule 3 amends the list of deductible gift recipients (DGR) in the Income Tax Assessment Act 1997. Taxpayers can claim income tax deductions for certain gifts to organisations with DGR status. DGR status will assist the listed organisations to attract public support for their activities.

Schedule 3 adds two new organisations to the Act, namely, the Australian Council of Social Service Incorporated and Make a Mark Australia Incorporated.

Full details of the measure are contained in the explanatory memorandum.

Debate adjourned.

Public Interest Disclosure Bill 2013

Public Interest Disclosure (Consequential Amendments) Bill 2013

First Reading

Bills received from the House of Representatives.
Senator JACINTA COLLINS
(Victoria—Deputy Leader of the Government in the Senate, Manager of Government Business in the Senate and Parliamentary Secretary for School Education and Workplace Relations) (18:09): I move:

That these bills may proceed without formalities, may be taken together and be now read a first time.

Question agreed to.

Bills read a first time.

Second Reading
Senator JACINTA COLLINS
(Victoria—Manager of Government Business in the Senate and Parliamentary Secretary for School Education and Workplace Relations) (18:09): I table a revised explanatory memorandum relating to the Public Interest Disclosure Bill 2013 and I move:

That these bills be now read a second time.

I seek leave to have the second reading speeches incorporated in Hansard.

Leave granted.

The speeches read as follows—
PUBLIC INTEREST DISCLOSURE BILL 2013

I am pleased today to introduce the Public Interest Disclosure Bill.

This Labor Government is committed to building and maintaining a culture of transparency. An open and transparent government is a key feature of a healthy democracy.

That is why we introduced the most significant pro-disclosure reforms to the FOI Act since its commencement decades ago, removing application fees and introducing free decision-making time for journalists. We also established the Office of the Australian Information Commissioner, to provide a free, easy to access forum for review of FOI decisions.

And that is why we are introducing legislation to establish a public interest disclosure scheme, and in doing so, delivering on one of our election commitments.

It was my privilege to chair the House of Representatives Standing Committee on Legal and Constitutional Affairs which, in February 2009, reported on a preferred model for legislation to protect whistleblowers within the Australian Government public sector. The bill the Government is introducing today largely implements the Government response to that report.

Blowing the whistle, or speaking out against suspected wrongdoing in the workplace, can be a risky course of action. At present, the Commonwealth is the only Australian jurisdiction without dedicated legislation to facilitate the making of public interest disclosures and protect those who make them.

Whistleblowers may risk subtle or more direct forms of workplace discrimination or harassment. They can be exposed to serious civil or criminal liability if they report misconduct through the wrong channels.

This bill will encourage a pro-disclosure culture, by facilitating disclosure and investigation of wrongdoing and maladministration in the Commonwealth public sector. In doing so, it will promote the integrity and accountability of the Australian Government public sector. It builds on practices established in the Australian Public Service for more than a dozen years but which have not been applied elsewhere in the Commonwealth public sector.

The bill does this by establishing a comprehensive framework for public interest disclosures in the Australian Government public sector. It is the first stand-alone protection scheme at the federal level.

We have aimed for best practice legislation that will apply broadly across the entire Commonwealth public sector. This has required considerable consultation across Government to provide a robust framework that will operate effectively.

There are three key aspects to this framework. The first is to encourage and facilitate all
Commonwealth public officials to report suspected wrongdoing. The second is to make sure that reports of suspected wrongdoing are properly handled by agencies and in a reasonable timeframe. Thirdly the bill protects public officials who report suspected wrongdoing from adverse consequences as a result of reporting their concerns.

The bill seeks to foster a culture in the Australian Government public sector which supports reporting wrongdoing, makes sure there are adequate responses by agencies to claims of wrongdoing and protects those who report wrongdoing.

A public official who is concerned about possible misconduct will, under this scheme, be able to report the matter to their own agency or make a disclosure direct to the Commonwealth Ombudsman, or to the Inspector-General of Intelligence and Security if the disclosure concerns the conduct of an intelligence agency. The scheme will be flexible to allow disclosures to be transferred to other agencies if the alleged conduct relates to another agency.

The scheme will also permit disclosures to be made under the scheme directly to other Commonwealth agencies that have a power to investigate wrongdoing of the kind disclosed. The bill provides for investigative agencies, in addition to the Ombudsman and the Inspector-General of Intelligence and Security, to be prescribed in rules to be made under the act. Prescribed investigative agencies will be able to undertake investigations under their otherwise statutory frameworks. In these circumstances the official who reports the matter will have the protections of the public interest disclosure scheme provided by this bill.

The emphasis of the scheme is on disclosures of wrongdoing being reported to and investigated within Government. This emphasis is designed to ensure that problems are identified and rectified. The bill establishes a scheme with clear procedures for officials to follow when a disclosure of suspected wrongdoing is reported.

Agencies will be obliged to investigate public interest disclosures, and to ensure that appropriate action is taken in response to any recommendations that are made following an inquiry and report. The bill permits a principal officer not to investigate a disclosure in some circumstances, for example, where the disclosure is lacking in substance or relates to conduct that has already been investigated.

A person who remains dissatisfied with the handling by an agency of a public interest disclosure they have made may make a complaint to the Ombudsman under the Ombudsman Act 1976, or, if the conduct relates to an intelligence agency, to the Inspector-General of Intelligence and Security under the Inspector-General of Intelligence Act 1986.

The Public Service Commissioner and the Merit Protection Commissioner will continue to have the role of inquiring into allegations of breaches of the Code of Conduct by APS employees where the discloser is not satisfied with the outcome of an agency's own investigation.

Where a public official has reported suspected wrongdoing and considers that the investigation or the response is inadequate they will be able to make their concerns public where that disclosure is not contrary to the public interest and where certain other criteria are met.

This option of public disclosure will not be available where the conduct in question relates to an intelligence agency, nor can there be public disclosure of any information which comprises intelligence or sensitive law enforcement information.

The risk that very sensitive information will be improperly or unwittingly publicly disclosed supports this approach. The Government considers that the right of complaint to the Inspector-General of Intelligence and Security, who is an independent statutory office holder, provides adequate assurance that there will be proper review of handling of disclosures of this kind.

The bill will also make provision for public disclosure where the disclosure concerns a substantial and imminent danger to health and safety.

Coming forward to report concerns in a workplace can take courage. Speaking up about
illegal, immoral or improper practices should be supported as a positive contribution to the integrity of an organisation. The bill provides extensive protections to public officials who report suspected wrongdoing.

An individual who makes a public interest disclosure in accordance with the provisions of this bill will not be subject to any civil, criminal or administrative liability for making the disclosure. Should there be unlawful reprisal action against a person who has made a qualifying disclosure, the Federal Court and the Federal Circuit Court will be able to make remedial orders, including for injunctive relief, an apology and compensation.

A person making a disclosure and suffering reprisals as a result would have the option of seeking remedies under either the Fair Work Act 2009 or the Public Interest Disclosure Bill, but not both.

The bill includes offences to prevent victimisation of disclosers and to protect their identity. Principal officers of agencies will have obligations to take reasonable steps to protect officials in their agencies from detriment arising from public interest disclosures they have made.

The Ombudsman and the Inspector-General of Intelligence and Security will have oversight functions for the scheme. The Ombudsman will be able to investigate a public interest disclosure made to the Ombudsman where the wrongful conduct relates to an agency that is not an intelligence agency or the Inspector-General of Intelligence and Security. The Ombudsman will also be able to investigate handling by agencies of public interest disclosures.

This bill will include amendments to repeal the current whistleblower protections provisions in the Public Service Act 1999 and the Parliamentary Service Act 1999. This change is to avoid duplication.

The Public Interest Disclosure Bill will provide a single comprehensive scheme to support inquiry into wrongdoing in the Commonwealth public sector and those who report it.

I commend the bill to the Senate.

PUBLIC INTEREST DISCLOSURE (CONSEQUENTIAL AMENDMENTS) BILL 2013

I move that this bill be now read a second time.

I am pleased today to introduce the Public Interest Disclosure (Consequential Amendments) Bill 2013. This Bill will amend a number of Acts in support of the scheme in the Public Interest Disclosure Bill 2013, which I introduced into the House of Representatives on 21 March 2013.

The Public Interest Disclosure Bill is the first stand-alone whistleblower protection scheme at the federal level. It will establish a comprehensive scheme to support disclosure of wrongdoing in the Commonwealth public sector, and to make sure that reports of suspected wrongdoing are properly investigated and responded to. Public officials who report wrongdoing in accordance with the scheme will have robust protections so that they do not suffer adverse consequences for making a report.

The Commonwealth Ombudsman and the Inspector-General of Intelligence and Security will have oversight functions for the public interest disclosure scheme. Amendments proposed in the Public Interest Disclosure (Consequential Amendments) Bill will support this oversight function. The Ombudsman will be able to investigate a public interest disclosure made to the Ombudsman where the wrongful conduct relates to an agency that is not an intelligence agency or the Inspector-General of Intelligence and Security. The Ombudsman will also be able to investigate handling by agencies of public interest disclosures.
The Inspector-General of Intelligence and Security will be able to investigate a public interest disclosure made to the Inspector-General of Intelligence and Security where the wrongful conduct relates to an intelligence agency. The Inspector-General of Intelligence and Security will also be able to inquire into the handling of public interest disclosures by intelligence agencies. The Ombudsman and the Inspector-General of Intelligence and Security will be able to undertake these investigations under their establishing legislation.

These investigative functions are complemented by other measures in the Public Interest Disclosure Bill. The Ombudsman will assist agencies and public officials on the operation of the scheme, including through the conduct of educational and awareness programs. It is very important that agencies and officials have a clear understanding of how the scheme works in order for it to operate effectively. The Inspector-General of Intelligence and Security will be able to assist intelligence agencies and public officials who belong to those agencies. The Ombudsman will be able to determine standards addressing procedures for dealing with public interest disclosure, the conduct of investigations and the preparation of reports. Agencies will also need to give the Ombudsman certain information about public interest disclosures which will be published in an annual report.

Consistent with the intention to create a single comprehensive scheme to promote inquiry and investigation into wrongdoing in the Commonwealth public sector, amendments proposed in this Bill will repeal existing provisions in the Public Service Act 1999 and the Parliamentary Service Act 1999 dealing with whistleblower protections.

The scheme will allow a public official to make a disclosure within their agency, to the Ombudsman, to the Inspector-General of Intelligence and Security, if the conduct relates to an intelligence agency, or to a prescribed investigative agency. Upon being prescribed, statutory office holders with investigative powers, such as the Public Service Commissioner, Merit Protection Commissioner and the Commissioner for Law Enforcement Integrity, will be able to conduct investigations where they have existing power to do so. The scheme will be flexible allowing for disclosures to be transferred to agencies that are best placed to investigate them.

Amendments in the Bill will preserve a function for the Public Service Commissioner and the Merit Protection Commissioner to inquire into public interest disclosures relating to alleged breaches of the Australian Public Service Code of Conduct. A similar amendment is proposed to preserve a function for the Parliamentary Service Commissioner and Parliamentary Service Merit Protection Commissioner to inquire into public interest disclosures relating to alleged breaches of the Parliamentary Service Code of Conduct.

I foreshadow that I intend to introduce Government amendments to the Public Interest Disclosure Bill shortly. I also welcome the report of the House of Representatives Standing Committee on Social Policy and Legal Affairs, following its inquiry into the Public Interest Disclosure Bill, which was tabled yesterday. I will be considering their report carefully.

This Bill, together with Public Interest Disclosure Bill, will serve to strengthen the integrity and accountability of the Australian government public sector.

I commend the Bill to the Senate.

Debate adjourned.

**Superannuation Laws Amendment (MySuper Capital Gains Tax Relief and Other Measures) Bill 2013**

**First Reading**

Bill received from the House of Representatives.

**Senator JACINTA COLLINS** (Victoria—Manager of Government Business in the Senate and Parliamentary Secretary for School Education and Workplace Relations) (18:10): 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 JACINTA COLLINS
(Victoria—Manager of Government Business in the Senate and Parliamentary Secretary for School Education and Workplace Relations) (18:10): I table a revised explanatory memorandum relating to the bill and 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 various taxation laws to implement a range of improvements to Australia's tax laws.

Schedule 1 amends the Income Tax Assessment Act 1997 to ensure default members of superannuation funds are not adversely affected if their account balances are compulsorily transferred to a MySuper product in another fund as a result of the MySuper reforms.

Where superannuation funds do not offer a MySuper product, the MySuper provisions will require them to transfer their default members' account benefits to a fund offering a MySuper product by 1 July 2017. This measure allows the superannuation fund to transfer any tax losses and defer an income tax liability for assets transferred to the other entity.

Schedule 2 amends the Defence Force Retirement and Death Benefits Act 1973 to make consequential changes to enable the Commonwealth Superannuation Corporation—the trustee of the Defence Force Retirement and Death Benefits scheme—to release a lump sum for the purposes of meeting a debt account discharge liability; and to reduce the benefit as a consequence of that payment.

Schedule 3 amends the Fair Work Amendment Act 2012 to allow an employer to make contributions for default fund employees to whom a modern award applies to a superannuation fund in respect of an employer MySuper product (a tailored or corporate MySuper product), subject to the product being approved by the Fair Work Commission.

The changes to the Defence Force Retirement and Death Benefits scheme will ensure beneficiaries of this scheme are not disadvantaged in comparison to members of other Commonwealth defined benefit schemes and can have their benefits adjusted to meet their liability under the sustaining the superannuation contribution concession measure.

This Bill also amends workplace relations laws to implement changes to default superannuation arrangements for employees to whom a modern award applies.

Schedule 3 amends the Fair Work Amendment Act 2012 to allow an employer to make contributions for default fund employees to whom a modern award applies to a superannuation fund in respect of an employer MySuper product (a tailored or corporate MySuper product), subject to the product being approved by the Fair Work Commission.

The changes establish a two-stage approval process under which an Expert Panel of the Fair Work Commission will assess employer MySuper products to determine whether they are in the best interests of the relevant default fund employees. This approval process, including the legislated criteria for both stages of assessment, is largely consistent with the process for generic MySuper products that was established in the Fair Work Amendment Act.

The amendments will also increase the maximum number of funds that can generally be specified in a modern award from 10 to 15. This addresses concerns that employers covered by multiple modern awards could be prevented from using employer-specific subplans of generic superannuation products because the existing limit of 10 funds may see some high performing funds not being included in particular modern awards where there are more than 10 funds with highly suitable generic superannuation products. The proposed amendments ensure that high performing funds have reasonable prospects of being specified in modern awards for which the tax concession received by higher income earners is more closely aligned with the concession received by average income earners. This will improve the fairness of the taxation of our marvellous superannuation system.

These changes to the Defence Force Retirement and Death Benefits scheme will ensure beneficiaries of this scheme are not disadvantaged in comparison to members of other Commonwealth defined benefit schemes and can have their benefits adjusted to meet their liability under the sustaining the superannuation contribution concession measure.

This Bill also amends workplace relations laws to implement changes to default superannuation arrangements for employees to whom a modern award applies.

Schedule 3 amends the Fair Work Amendment Act 2012 to allow an employer to make contributions for default fund employees to whom a modern award applies to a superannuation fund in respect of an employer MySuper product (a tailored or corporate MySuper product), subject to the product being approved by the Fair Work Commission.

The changes establish a two-stage approval process under which an Expert Panel of the Fair Work Commission will assess employer MySuper products to determine whether they are in the best interests of the relevant default fund employees. This approval process, including the legislated criteria for both stages of assessment, is largely consistent with the process for generic MySuper products that was established in the Fair Work Amendment Act.

The amendments will also increase the maximum number of funds that can generally be specified in a modern award from 10 to 15. This addresses concerns that employers covered by multiple modern awards could be prevented from using employer-specific subplans of generic superannuation products because the existing limit of 10 funds may see some high performing funds not being included in particular modern awards where there are more than 10 funds with highly suitable generic superannuation products. The proposed amendments ensure that high performing funds have reasonable prospects of being specified in modern awards for which the tax concession received by higher income earners is more closely aligned with the concession received by average income earners. This will improve the fairness of the taxation of our marvellous superannuation system.

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Fair Work Commission assesses them as highly suitable for employees covered by the award.

The measures will also provide certainty that stakeholders have sought regarding when arrangements may change by not requiring any changes to existing arrangements before at least 1 January 2015.

These amendments have been developed following extensive consultation with employers, unions and superannuation industry stakeholders following the passage of the Fair Work Amendment Act last year.

This measure fulfils the commitment made by the Government to introduce any required amendments to ensure appropriate arrangements are in place for corporate funds. It will ensure that employees whose default superannuation contributions are being directed to high performing employer MySuper products are not made worse off from the new default superannuation system and prevent unnecessary disruption for employers with employer MySuper products.

Full details of the measure are contained in the Revised Explanatory Memorandum.

Debate adjourned.

Ordered that the resumption of the debate be made an order of the day for a later hour.

**Australian Citizenship Amendment (Special Residence Requirements) Bill 2013**

**Asbestos Safety and Eradication Agency Bill 2013**

**Corporations and Financial Sector Legislation Amendment Bill 2013**

**Environment Protection and Biodiversity Conservation Amendment Bill 2013**

**Assent**

Message from the Governor-General reported informing the Senate of assent to the bills.

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**COMMITTEES**

**Finance and Public Administration Legislation Committee**

**Legal and Constitutional Affairs Legislation Committee**

**Economics Legislation Committee**

**Report**

Senator McEwen (South Australia—Government Whip in the Senate) (18:11): Pursuant to order and at the request of the chairs of the respective committees, I present reports on legislation from the Finance and Public Administration Legislation Committee, the Legal and Constitutional Affairs Legislation Committee and Economics Legislation Committee as listed at item 15 on today's Order of Business, together with the Hansard record of proceedings and documents presented to the committees.

Ordered that the reports be printed.

**Broadcasting Legislation Committee Report**

Senator Cameron (New South Wales) (18:12): I present the final report of the Joint Select Committee on Broadcasting Legislation.

Senator Cameron: by leave—I move:

That the Senate take note of the report.

The parliament established the committee at the same time as the government released its broadcasting legislation reforms in March this year. The government's package of bills was its response to two thorough, high-profile reviews: the first being the convergence review into the policy and regulatory framework around converging media and communications; and the second being the Finkelstein review into codes of practice, convergence and the production of quality news. The committee's terms of
reference centred on three potential policy changes that the government considered could also be implemented: abolishing the 75 per cent audience-reach rule for television; providing that a program supply agreement alone could indicate control of a broadcaster; and giving the Australian Communications and Media Authority the power to require on-air reporting of its findings.

The committee held a public hearing into the first term of reference on Monday, 18 March 2013 in Canberra. It received submissions on all three terms of reference from 13 organisations. The committee supports the first policy proposal because the reach rule is becoming redundant with the advent of the internet and converging media. However, there was concern at the hearing about whether local regional news would continue if the reach rule were abolished. In recognition of this concern, the committee's support for the proposal is based on two conditions: one, that there should be legislation on legally enforceable undertakings to support local content in regional Australia; and, two, there should also be a clear definition of local content to ensure that regional viewers have access to appropriate levels of high-quality, locally devised and locally presented programs.

I note that, in relation to legally enforceable undertakings, Nine Entertainment Co. Holdings Pty Ltd tabled a draft undertaking to the Australian Communications and Media Authority, pursuant to section 205W of the Broadcasting Services Act 1992, in the form of a legal undertaking. This undertaking committed Channel 9 in the event of a merger to producing no less than 22 minutes of news that relates directly to the licence area and no less than 16.5 minutes of news that relates directly to the local area. Channel 9 Chief Executive Officer David Gyngell further committed during the hearings to amendments to the undertaking to make them 'sturdier' if required.

It is interesting to note the diverging views put to the hearing in relation to the benefit of broadcasting local news in regional areas. Prime Media Group indicated that they have a large investment in local news and that it generates substantial commercial returns, both directly and indirectly. They went on to say that they do about 140 local news and weather updates every day and that they did not believe that local news would disappear with a change to the 75 per cent rule. They said:

The reality is that local news services deliver audiences well in excess of 40 per cent and 50 per cent of the total audience, and any broadcaster that took the blade to local news services would suffer from an audience point of view. Whether the revenue comes directly into local news programs or other parts of the schedule is really irrelevant because it is a bit like the AFL: you get a halo effect in revenue and audience from having local news.

So Prime are unequivocal in relation to the benefits of having local news in regional areas. WIN stated the opposite. They said:

WIN spends probably three to four times the amount of revenue it actually generates to produce those news services. There is no commercial gain for WIN in producing so many news services.

In my view, the arguments from Channel 9 and Prime are more persuasive than the arguments from WIN.

The committee does not support the second policy change. There was no support for it during the inquiry. However, it may be appropriate to revisit this issue at a later date, especially given that the government and the parliament regularly review and change broadcasting policy.

The committee supports giving the Australian Communications and Media Authority the power to require on-air
corrections, clarifications and directions based on its findings. The authority demonstrated to the committee that there is a gap in the sanctions it can impose on broadcasters. Industry expressed a range of concerns during the inquiry about on-air reporting of regulatory findings; however, these issues can be addressed, and doing so will ensure that the measures will be fair on broadcasters. A key example of the need for this provision is a recent breach of the commercial TV code of practice by WIN TV when it failed to broadcast factual material accurately. WIN TV compounded the breach by refusing to comply with an ACMA recommendation that they make an on-air statement concerning ACMA's findings. WIN broadcast a statement by a representative of the curiously and some would say deviously named Australian Vaccination Network. WIN claimed this broadcast was in the interest of balance. What was broadcast from the Australian Vaccination Network was:

All vaccinations, in the medical literature, have been linked with the possibility of causing autism, not just the measles-mumps-rubella vaccine.

If ACMA cannot enforce the broadcasting of a correction to such a blatantly wrong and dangerous statement the committee believes it should be given legislative power on this issue.

I thank the organisations that assisted the inquiry through their submissions and their participation at the hearing. I also thank my colleagues on the committee and former chair Senator Matt Thistlethwaite for their contribution to the inquiry and report. As always, I am grateful for the excellent and professional work carried out by the secretariat.

Senator BIRMINGHAM (South Australia) (18:20): I join Senator Cameron in thanking the many participants to this inquiry and acknowledging the important subject matter that the Joint Select Committee on Broadcasting Legislation has considered as part of the report that has just been tabled.

I would note that this was one of the more unusual Senate committee processes that I have been a part of in my six years in this place. It was unusual not because of the conduct of the inquiry by Senator Cameron or his predecessor as chair Senator Thistlethwaite but because it was a committee established by the government's mandate in a great hurry as part of a government attempt to undertake sweeping review reforms and yet also push off to the sideline a few issues that the minister had put in his too-hard basket.

It is easy, given all of the chaos that we see from this government on a regular basis, to forget the chaos of a few months go that was of course Senator Conroy's ill-fated attempt at media reform. It is easy to cast that to the back of your mind as you contemplate the chaos that envelops the government today. Many will recall when prompted that Senator Conroy attempted to ram through this parliament in the space of one week some of the most sweeping media reforms the nation has ever seen.

Senator Conroy apparently failed to consult most of his cabinet colleagues and caucus and, in doing so, created a diabolical situation for the government, where it was pitched against most of the nation's media outlets, who were aghast at the proposed reforms that were about to be laid upon them, the heavy handed nature of those reforms and the threat to free speech that was inherent in Senator Conroy's approach. Having cast aside all proper process et cetera, he demanded sweeping legislative reforms to establish a new public interest
advocate who would have sweeping powers over regulation of newspapers and regulation of media ownership, and he demanded that these substantial measures should be dealt with by the parliament in the space of one week.

The inquiry into that legislation—several bills, as I recall, with many pages of new legislation and substantial changes—had barely a day or two to report, assess, consider, hear from witnesses, take submissions and all of the usual things. There were several days, at most, for consideration of the same package of bills by both houses of parliament before Senator Conroy’s self-appointed deadline to have those sweeping reforms enacted by the parliament.

In contrast, there were a couple of issues that Senator Conroy parked in his too-hard basket. So, rather than dealing with those that he found too hard—which had been, in some instances, considered and assessed by the convergence review—he established a joint select committee. This joint select committee is, of course, the one that reports today and concludes its work. It had several months to undertake its work. It had several months to consider and assess the specific proposals before it, compared to what Senator Conroy was trying to do with the sweeping changes he wanted to ram through the parliament in the space of just a week.

The oddity of the process comes from the fact that the only public hearings this joint select committee undertook were held in the same week as the great media reform debate—essentially in conjunction with, simultaneous to, or just after, the hearings of the legislation committee of the Senate, which looked at the broad issue of reforms. Why was it done in that nature and in that time frame? Because Senator Conroy, despite giving the committee many months to report, hoped to have this committee report on at least on some of these issues in the space of days, to have them bolted onto his ultimately ill-fated media reforms.

Thankfully, Senator Thistlethwaite, and later Senator Cameron, rejected those approaches of Senator Conroy. They rejected his desire to get a blank cheque, in a sense, to go forward with even wider media reforms, and at least let this process run its course and allowed proper deliberations of the committee. I pay tribute to Senator Cameron for his work in the committee in trying to come up with a sensible resolution and recommendation when it came to the reach rule, which was the most contentious part of the committee's deliberations.

The coalition has made a number of comments in addition to the report, but I would say that in principle the broad thrust of Senator Cameron’s recommendations—and the committee's recommendations—in relation to the reach rule are consistent with the coalition's position. And I think they are accepted across the parliament. The reach rule is a rule that limits how much television market any one television broadcaster can own rights to access. It applies a 75 per cent cap in place, which means that no one television broadcaster could have licences to broadcast across all areas of Australia. You can only access some 75 per cent of the populace.

This rule, in many ways, was designed to try to ensure that we had a commitment to local or regional content. However, it really is an anachronistic rule. Regulating ownership and placing restrictions on ownership does not provide a guarantee of local production or local content. What is important is that we have the right legislative safeguards in place for local production and local content, instead.
The committee has found that considering abolishing the reach rule—as was referred to the committee—is putting the cart before the horse. What we should be doing, if either side of this parliament contemplates, in government, abolishing the reach rule, is, first and foremost, assessing what we expect regional content to be, and ensuring we have appropriate regional content legislated, regulated and in place.

I acknowledge, as Senator Cameron alluded to, the undertakings that Mr Gyngell suggested could be made as part of Nine's proposal for enhanced acquisition of broadcast reach, should the reach rule be abolished. That would be a step in the right direction, but it should really be the parliament, as the appropriate determinant of what the public interest is, that sets in place what level of regional production, regional content, local production and local content is appropriate. Then and only then could you get around to considering the abolition of the reach rule and opening up the ownership market. That is not going to be an easy process. The coalition acknowledges, in its additional comments to the report, that there would be many different views about what appropriate local content levels are. However, we think it should be done in the right order, not the wrong order, as Senator Conroy was contemplating.

Very briefly, I note one other recommendation of this committee, which relates to requiring or providing a legislative capacity for the ACMA to require on-air corrections. The coalition's view is that the case has not been made for such legislative change at present. There should be a persuasive case made before the parliament agrees to improve the powers of a regulator, and we believe that it is important in that context that there should be a fuller consideration of those issues, with appropriate arguments put for and against, rather than what was, in many ways, a side issue of this committee's deliberations when compared to the deliberations around the reach rule, which received far greater prominence.

With that, I commend the committee's work and, in particular, draw attention to the coalition's additional comments. I seek leave to continue my remarks later.

Leave granted; debate adjourned.

Sitting suspended from 18:30 to 19:30

BILLS

Constitution Alteration (Local Government) 2013

Second Reading

Debate resumed on the motion:

That this bill be now read a second time.

to which the following amendment was moved:

At the end of the motion, add:

but further consideration of the bill be made an order of the day for the first sitting day after the Government puts into place financial arrangements to provide for equal funding for both the 'yes' and the 'no' case, to ensure that the Australian community is properly informed about the arguments for and against the proposed change to the Constitution.

Senator SCULLION (Northern Territory—Deputy Leader of The Nationals) (19:30): I rise today to make a contribution to the Constitution Alteration (Local Government) 2013. I visited home, as we all do here from time to time, at the weekend. It was just a quick visit. My constituents had, as they always do, a whole range of questions. There were lots of questions about marine protected areas, there was some stuff about turtles in nets and there was lots of stuff about the economy—I tried not to frighten the children with my answers in that regard!—but, surprisingly, nobody asked me, 'What's going on with the change to our
founding document in regard to local government? Not a soul asked me a single question about the local government changes. That is a pretty sad indictment, given that we are now proposing to put to the Australian people an alteration that makes clear the role that local government can play and makes a whole range of clarifications around financial payments. For the benefit of not only Territorians but whoever else is listening, I thought I would put on record a couple of things—the chunky bits, anyway.

The coalition has previously expressed support, certainly in principle, for the financial recognition of local government. Along came two High Court cases—in the past, this was not an issue—that put doubt over the Commonwealth's ability to make direct payments to local government. The Pape case was the first one. I think a lot of people were looking forward to the answers from that. But, sadly, it appeared to provide more questions than it did answers. Certainly the Williams case that followed that put a lot of doubt over the convention that the Commonwealth could make, as it had been making, direct payments for a whole raft of issues.

It is important to reflect on some of the payments, programs and measures that may also be put into question. It is not only about the dollars. People on the streets and in the pubs are not really all that interested in the highfalutin processes of constitutional change, but they are concerned about what may not be available in the future. Local governments are paid around $500 million a year through a number of programs. Of course, one of the iconic programs is the Roads to Recovery program. It is a program that I think has got really good bang for the buck. One of the reasons it has got good bang for the buck is that nobody gives it a touch-up on the way through; it goes straight to local government, and local government then actually spend it on roads. The more people in the camp, obviously, the less efficient the process becomes. The shadow minister responsible for local governments and bridges, Barnaby Joyce, has oft lectured us on the 30,000 bridges that need repairing. He is reluctant to give it to an overseas contractor, who might give it to another state, who might give it to the local government, who then might give it to another contractor—ending up with an alliance, and maybe only two bridges fixed. I share his concerns in that regard.

These are very serious matters in terms of the sorts of programs that are delivered by local government. Over the past five years we have delivered more than 6,000 projects, and each one of those has been funded through a direct payment. We do not have time to go into the number of those, but I have not heard a lot of complaints about how local government has built a giraffe instead of a rhino, so one would assume that these were not only important programs but programs that were efficiently delivered.

It is probably worth looking at why these two cases have raised some doubt. Professor Anne Twomey submitted to the Joint Select Committee on Constitutional Recognition of Local Government:

Is this direct funding at risk of being held constitutionally invalid? Yes, much of it, in my view, is vulnerable to a constitutional challenge … Some might well be supported by a Commonwealth head of legislative power, but much of it, including the Roads to Recovery program, is probably not so supported and therefore invalid.

Many people in this place would know I am stretching my limits a bit in talking about constitutional law—I can hardly spell it!—but, in seeing this, I can understand that, if Roads to Recovery and similar programs, like bridges to recovery and the 6,000 other programs delivered through local government...
government, are all at risk then this is a very important matter for Australians. We are not actually here to debate the benefits—I am not, anyway. I know that Territorians are well grounded individuals; they will get their heads around this eventually. Or, maybe they will not, and this is the point—they will be able to make their minds up in the process of the next election on making a constitutional amendment.

But there are a couple of issues with the process. People in local government have very long faces. They wear a big badge that says 'yes' and it has this sad, non-smiley face on it. I understand, from talking to them quietly, that they are not all that hopeful of this getting up. And this is the third time around. I think most Australians would see that, if you are trying to make a constitutional change, the third time is pretty significant—it will be three strikes and you are out. Sadly, I think the representatives of local government have been duped by this government into allowing them to run a constitutional amendment with what I would consider to be relatively short notice.

What do people think about this? What are their views? There was a poll conducted by the Australian Local Government Association that found that 61 per cent of Australians support recognising local government, and that includes a majority of support in every state. With all polls, you have to be a bit cautious. I am not sure about the question. If you asked the question, 'What do you think about?' they would say, 'I haven't got a clue.' Most of my mates would; they would say they had 'not a clue'. But if the question had been: 'Do you think it is okay to directly fund local government and do you think it is important?' then, quite rightly, some 61 per cent would have said that that was all right. In rural and regional Australia they demonstrated substantially higher support than in urban areas. These results are more broadly supported by recent Nielsen polling, which found that 61 per cent of Australians support recognising local government in the Constitution, including strong majorities in every state.

At some stage, I would expect the government to seek advice. That is what we do in these matters and this is a very important matter of constitutional amendment. The government in its wisdom—and quite properly—said: 'Let's form an expert panel. They can take evidence from other experts about, first of all, the consequences of this, what the issues are and provide the government with some advice about how we can go about that.' The most recent consideration of a constitutional change is in much the same way—recognition of our first Australians in the Constitution.

For that process we also have an expert panel. It has made some recommendations and we are moving along within the framework of those recommendations, as one would—across the board there has been recognition that the reason you ask experts to provide information is to pay some sort of attention to that information and act upon it. The majority of panel members support a referendum in 2013 subject to two conditions. They got that right—it is 2013. We are going to have a constitutional amendment to reflect the financing of local government. They have not gone too far off it. But it is all in the fine print. There are only two conditions, so they are probably significant. The first is:

… that the Commonwealth negotiate with the States to achieve their support for the financial recognition option.

That is pretty clear. I am not sure in government how that is going but, the way I have heard it, all states except for South Australia and Tasmania have said a resounding, 'No, we are not interested at all.'
As for the other two states—I do not want to verbal anyone—they have not come out and said, 'Yes,' so they are still to vote on it. I will repeat that first recommendation:

... that the Commonwealth negotiate with the States to achieve their support for the financial recognition option.

That clearly has not been achieved. In fact, in evidence to the joint committee, the department could not even give specific evidence of meetings with local government ministers—and you wonder why they get their noses out of joint. You wonder why the states and territories are saying, 'This is all last minute. You haven't even spoken to us.' No wonder it's all, once again, pouring porridge on your own parade. Everything they touch is the porridge touch. The second condition is:

... that the Commonwealth adopt steps suggested by ALGA necessary to achieve informed and positive public engagement with the issue, as set out in the section of this report on the concerns about a failed referendum.

I can speak with some authority on this, having read the expert report on the recognition of our first Australians. It says, very importantly, that if people are not educated in this process, if people do not understand exactly what they are voting for, they will say no. We know that is the history. It is a very significant history in Australia, where that is exactly the way people behave.

Some 44 referenda have been put to the people of Australia. Only eight have passed, so we are up against it anyway. A specific recommendation, 'Adopt steps necessary to achieve informed, positive public engagement,' is ignored. I do not know about 'informed' or 'positive' but I can certainly say that of my short sojourn to the Territory on the weekend. No one has spoken to me about it. Media hounded me about a whole bunch of stuff they normally hound us about, and that is terrific, but no-one asked me about that. So clearly there has been no engagement whatsoever to date.

We have an election looming, so I am not really sure what we are going to do about that. But in terms of the first two ticks that the panel members recommended, there just seems to be crosses in both boxes—not going to work; not going to work. Those people in local government would be, I suppose, pretty appalled at the circumstances we have now. They have very long faces because they believe in their heart of hearts that, the way it is going, it is not going to get up, despite the importance of it to so many people.

We had a bit of an announcement the other day, on 17 June. Better late than never. 'Better engage the people—let's get out there!' 'How are we going to do that?' 'I don't know. How Labor do everything—spend some money!' 'How much? Albo—come on mate!' 'Come on, Swanny,' says Albo, 'give us a few Oxfords.' '$10 million. That's a lot of money. Gee, that's great. That'll impress local government. All right, there you are.' Someone says, 'Hey, Albo, mate, we're supposed to be funding both sides. It doesn't matter how passionate you are about one thing or another, we've gotta fund both sides, mate.' 'Oh, righto. We'll give them $500,000. No-one will really notice. No-one will notice a bit of an inequity. No-one will see, right from the starting point, from the get-go, you're really getting this wrong.' But sadly, they did. Everyone has noticed.

Nobody can really understand that level of inequity. If you think about it, there are a few precedents in recent history. We all know that John Howard was a pretty keen monarchist. He had an opportunity to say, 'Well, we just won't fund the ones we don't like—that's a big step in democracy.' But that is not what he did. There were 7½ million for the yes vote and 7½ million for the no
vote—a democratic process. Sadly, and it beggars belief, that does not seem to be what they are about.

The Australian Electoral Commission went on to tell the expert panel that rushing it would actually jeopardise the AEC preparations. As to the AEC: God bless their socks! I have spent a lot of time with the AEC, because remote polling is a very complex matter, and they are absolutely passionate about making sure everyone gets the chance to exercise their democratic right to vote, in whatever way it happens. So the AEC have provided the advice to government and to parliament that rushing this is going to jeopardise the AEC preparations. They are an independent body, they have looked at the matter and they have warned that we are going about it the wrong way. I have to say that I have been striking around, looking carefully for the government's response to that—it would obviously make a response to an AEC recommendation that the government is rushing—but thus far I have seen nought.

Whilst I have indicated that I certainly support the principle of the recognition of local government, the problem with this is the manner in which it has gone forward. I ask myself: why is it that Labor have gone down this road again? It is quite simple. We knew what we had to do and we knew that starting the process now would really lead to complete failure. If you cared about local government, why would you do this? What was the government's motivation for this? Everything goes to motive—in this place, we should always consider motive. In my view, this campaign is a weapon of mass distraction. They do not want to go into an election thinking that it is simply a referendum, as it should be, on whether the Gillard government should remain on the Treasury bench and continue to destroy any confidence and credibility in this great nation. That is what we should have. I am not sure who had the brilliant idea on the other side, but, quite clearly, if you look at motivation, Labor have again put their interests ahead of the interests of the nation. Labor believe this is a mass distraction. They think this is going to help them out in the election—forget about what local government wants. We know it will be a 'No' vote because we have not given enough time for the process or educated the people. We know it is going to be a 'No' vote due to all of the recommendations given by the expert panel. But the strategists in the Labor Party are very good at putting Labor first. Somebody needs to kick them in the ribs every now and again and say, 'Listen, you're actually here looking after our national interest.' There is a sign that has hung over many workplaces: 'Do it once, do it well'—Mr Acting Deputy President Fawcett, I know you would have seen a few of those in your workplaces over the years.

This issue, as I have said, has been tested by a referendum on two occasions and the answer on the other occasions was a resounding 'No'. The circumstances then were probably not as compelling as now. Particularly given the great work that local councils have done with regard to Roads to Recovery and so many other programs, the occasions that the other referenda were held on this matter were probably not as acute and there was not that body of corporate knowledge or, therefore, the confidence behind them.

If we want to do this, we have to take the time to get it right. I think that this is absolutely going to fail—you could bet London to a brick on it. They have not got it right. They have not met the basic fundamentals. We know that, in a referendum, if you are going to get it right, people need to know exactly what is going on. They need to know exactly what the
proposal is. They need to know what the change to the Constitution will really mean. They need to be really confident about that before they will change our founding document. The government have ignored good expert advice, such as the fundamental requirement: get the states onside. The states are not anywhere near being onside. The states have said quite categorically that they are not doing it. Yet, knowing that this will fail, the government still say, 'We're going to stick with it.' They are going to stick with it because they are motivated by self-interest, not the national interest, again. So it does not matter if you question the motivation around why it is being done now.

It is such a mystery to me. So often do I think, 'How many things can you stuff up?' But they do it time and time again. That is what happens when you put the interests of your own party ahead of the national interest. There is only one referendum, and there should only be one referendum, at this next election, and that is the referendum on whether we need to get rid of the single worst government in Australia's history.

Senator ABETZ (Tasmania—Leader of the Opposition in the Senate) (19:49): It is an affront to our democracy that the Greens–ALP alliance is guillotining this fundamentally important piece of legislation, legislation designed to change our Constitution, the foundation block of our parliamentary system and Commonwealth powers. There is no doubt that this legislation will enhance central control over local government. We as a coalition have said that we will not stand in the way of debate or prevent this question from going forward to the Australian people. But what we have said and reminded the government of time and time again is this: their own expert panel, led by Mr Spiegelman, has told them that now is not the right time. So it begs the question: why are Labor doing it, aided and abetted by the Australian Greens and the so-called country Independents in the other place? We have heard no answer.

Secondly, the independent Australian Electoral Commission has told the government that, to run a successful referendum, one should have at least a 27-week lead-in time. We now know that that will not be possible; at most, it will be 18 weeks—in other words, truncated by one-third. Why was it so necessary to put this question up now? Again, Labor do not provide any answer. It is not that they do not provide a comprehensible answer; it is simply that they have none and they provide none.

The third factor in this debate, which I think is the most egregious, is this: the skewed funding for the 'Yes' and 'No' cases, to a factor of 20 to 1. It is as unprecedented as it is unprincipled.

For Mr Howard, the staunch monarchist that he was, when there was a proposal to put before the Australian people a plebiscite in relation to whether or not Australia should become a republic, it went completely without second thought that the 'Yes' and 'No' cases should be equally funded. It has thus been and should continue to be.

You see, from the coalition point of view, we believe that the integrity of the process is just as, indeed more, important than the question that is to be put to the Australian people. But as is Labor's wont, they think they can always buy results: see a problem; throw money at it; problem gone. Swamp it with taxpayers' dollars, and the problem is gone. I think the Australian people in their commitment to the underdog will ensure the failure of that particular strategy.

I also remind those opposite that they, in this last budget, had to cut the asbestos agency by $1.8 million before it was even established—that is their commitment to the...
workers suffering from asbestos related diseases. But we have got $10 million for an advertising campaign on the local government referendum and we have got $22 million to promote the government's National Disability Insurance Scheme, which has bipartisan support. There is no need to advertise that other than for blatant political purposes, and that gives you an insight into the government's priorities. It is not a pretty sight. It is highly ugly.

We have got more than enough money for a skewed 'Yes' campaign, we have got more than enough money for a de facto political campaign on the NDIS with taxpayers' money but, no, we do not have enough money to set up the asbestos agency as we should because there is not $1.8 million available. And where is the trade union movement in all of this? It is nowhere to be seen, nowhere to be heard. It is an absolute abdication by the trade union leadership of this country. They are more interested in their own future preselection prospects than they are in genuinely looking after the needs of Australian workers.

The fourth outrage in all of this is the gag debate today. Let me remind the leader of the government in this place what he said in relation to certain legislation that the Howard government gagged. Yes, we did guillotine legislation. But with all of these things it is always a matter of proportion. I remind those opposite of the 32 bills in a full three years, which was railed against as an outrage against democracy, an undermining of the Senate, and so the rhetoric went on. And here we are today voting at the end of this week for 216 guillotined bills—6½ times the number under the Howard government. Where is the outrage from the absent press gallery on this? Why are their keyboards not tapping away like they did just those few years ago? This is what Senator Conroy had to say on that occasion: this guillotine had the effect of preventing 10 speakers from stating their views on this legislation. Well, tonight's gag will be denying 15. So where is Senator Conroy? He is very quiet. The hypocrisy oozes out of every pore of this Greens-Labor alliance.

Whilst I am on the Greens, let us recall the alliance agreement, signed on 1 September 2010. Do you know what the first principle was of this great alliance? Principle 2A was that the parties agreed to work together to pursue the following principles: transparent and accountable government, and improved process and integrity of parliament. We now know that this document is as useful as a used tissue—to be discarded without a second thought, completely and utterly irrelevant. There is no intention by the Australian Greens to have these policies implemented. So tonight we will continue with a rolling guillotine that was described by Senator Conroy as absolutely arrogant. The Australian Greens parade themselves as this protector of the Australian parliament, especially the Senate. Senator Milne told us. Yet since the Howard government got control of the Senate that commitment to government integrity and accountability has indeed been a false one.

If that was the case with 32 guillotines, what does it tell us about the 216 guillotines in which Senator Milne herself has been complicit, and which Senator Milne and the Australian Greens have voted for, each and every one? How do the Greens look at themselves in the mirror of a morning and say, 'Yes, we signed up for a transparent and accountable government; we signed up to improve process and integrity of the parliament,' when they have wilfully voted, day after day, year after year, now, in this 43rd Parliament, for over 216 guillotines on very important legislation?
So self-righteous are the Greens that they want at least 2½ hours dedicated each week to their private member's bills—chances are, a good policy. It is a pity they could not allow 2½ hours devoted to each and every bill that comes before this place, such as the Gonski review legislation. 'Oh no; no 2½ hours needed for that legislation; we know it all'—just like they knew it all about the carbon tax which they guillotined. What a great success that one was! What a great success the mining tax which they guillotined was!

And so we have 216 bills to be guillotined in the most shameful and arrogant display by any government.

In concluding, I simply say this: the Senate is at its best and at its safest when the Liberal Party and National Party coalition has control here, because we now know that when the Greens-Labor alliance has control the guillotine becomes a daily, if not an hourly, occurrence.

The ACTING DEPUTY PRESIDENT (Senator Fawcett): Order! The time allotted for consideration of this bill has expired.

The PRESIDENT: The question is that the amendment moved by Senator Brandis on sheet 7402 be agreed to.

The Senate divided. [20:04]
(The President—Senator Hogg)

Ayes....................31
Noes....................34
Majority.................3

AYES

Abetz, E
Bernardi, C
Boyce, SK
Cash, MC
Cormann, M
Eggleston, A
Fierravanti-Wells, C
Humphries, G
Kroger, H (teller)

Back, CJ
Birmingham, SJ
Bushby, DC
Colbeck, R
Edwards, S
Fawcett, DJ
Fifield, MP
Joyce, B
Macdonald, ID

AYES

Madigan, JJ
McKenzie, B
Parry, S
Ruston, A
Scullion, NG
Smith, D
Xenophon, N

Mason, B
Nash, F
Payne, MA
Ryan, SM
Sinodinos, A
Williams, JR

NOES

Bilyk, CL
Brown, CL
Carr, KJ
Crossin, P
Faulkner, J
Furner, ML
Hanson-Young, SC
Lines, S
Lundy, KA
McEwen, A
Milne, C
Polley, H (teller)
Rhiannon, L
Singh, LM
Sterle, G
Urquhart, AE
Whish-Wilson, PS

Bishop, TM
Collins, JMA
Di Natale, R
Feeney, D
Gallacher, AM
Hogg, JJ
Ludlam, S
Marshall, GM
McLucas, J
Moore, CM
Pratt, LC
Siewert, R
Stephens, U
Thorp, LE
Waters, LJ
Wright, PL

Question negatived.

The PRESIDENT: The question now is that this bill be read a second time.

The Senate divided. [20:11]
(The President—Senator Hogg)

Ayes .................46
Noes .................8
Majority .............38

AYES

Bilyk, CL
Bishop, TM
Brown, CL
Carr, KJ
Crossin, P
Faulkner, J
Furner, ML
Hanson-Young, SC
Humphries, G
Lines, S
Lundy, KA
Marshall, GM

Birmingham, SJ
Boyce, SK
Collins, JMA
Di Natale, R
Feeney, D
Gallacher, AM
Hogg, JJ
Joyce, B
Ludlam, S
Macdonald, ID

CHAMBER
Question agreed to.

Bill read a second time.

Third Reading

The PRESIDENT: The question now is that the remaining stages of this bill be agreed to and this bill be now passed. I remind senators that section 128 of the Constitution requires that the proposed law be passed by an absolute majority. Therefore, the bells will be rung for four minutes, and the Senate will vote to enable the names of senators voting to be recorded.

The Senate divided. [20:19]

(The President—Senator Hogg)

Ayes...............................46
Noes..............................8
Majority.........................38

AYES

McLucas, J
Moore, CM
Payne, MA
Pratt, LC
Ruston, A
Siewert, R
Sinodinos, A
Sterle, G
Urquhart, AE
Whish-Wilson, PS
Wright, PL

AYES

Milne, C
Nash, F
Polley, H (teller)
Rhiannon, L
Scullion, NG
Singh, LM
Stephens, U
Thorp, LE
Waters, LJ
Williams, JR
Xenophon, N

AYES

Lines, S
Lundy, KA
Marshall, GM
McLucas, J
Moore, CM
Payne, MA
Pratt, LC
Ruston, A
Siewert, R
Sinodinos, A
Sterle, G
Urquhart, AE
Whish-Wilson, PS
Wright, PL

AYES

Ludlam, S
Macdonald, ID
McEwen, A
Milne, C
Nash, F
Polley, H (teller)
Rhiannon, L
Scullion, NG
Singh, LM
Stephens, U
Thorp, LE
Waters, LJ
Williams, JR
Xenophon, N

AYES

Back, CJ
Bernardi, C
Bushby, DC (teller)
Eggleston, A
Fawcett, DJ
Madigan, JJ
McKenzie, B
Smith, D

AYES

Back, CJ
Bernardi, C
Bushby, DC (teller)
Eggleston, A
Fawcett, DJ
Madigan, JJ
McKenzie, B
Smith, D

Question agreed to.

Bill read a third time.

Sex Discrimination Amendment (Sexual Orientation, Gender Identity and Intersex Status) Bill 2013

Second Reading

Debate resumed on the motion:

That this bill be now read a second time.

to which the following amendment was moved:

At the end of the motion, add:

but while the Senate does not decline to pass the bill, it notes:

(a) that it is intended to replace the Human Rights and Anti-Discrimination Bill 2012, and that despite three successive Attorneys-General committing to streamline and modernise anti-discrimination and human rights law via that instrument, this Bill shows that this government has no intention to do so;

(b) this Bill's preservation of sections 37 and 38 of the Sex Discrimination Act 1984, and indeed its extension of these exemptions for
religious bodies to discriminate on the grounds of newly protected attributes, represents another missed opportunity;

(c) that not only has this Government declined to modernise federal anti-discrimination laws generally, it has also declined to address some of the most pronounced cases where an organisation can deny a person's human right to freedom from discrimination; and

(d) the Government's statement that the Commonwealth legislation is not intended to cover the field with respect to jurisdictions with more advanced anti-discrimination law, and that it intends for state protections from discrimination to operate concurrently with the federal law.

Senator BIRMINGHAM (South Australia) (20:23): I rise to continue my remarks on the Sex Discrimination Amendment (Sexual Orientation, Gender Identity and Intersex Status) Bill 2013. As I was observing last week in this debate, the overall direction of this bill is extraordinarily positive, and the government's conduct in bringing this bill to the parliament following the rejection of their more sweeping changes to anti-discrimination laws is welcome. It was one that had been recommended and endorsed by the coalition when it came to the handling of those anti-discrimination laws. However, the coalition has expressed its concern at the amendment that the government has sought to move in this place which would present and provide for a variation to the general religious exemption provisions provided for in anti-discrimination laws. The coalition is concerned that that is a last-minute change and risks the community consent and support that we would hope each of these incremental improvements in our anti-discrimination laws usually bring.

From a personal perspective, I have no particular problem with the intent of the amendment. However, I do think it is important, as we progress debate on changes to our anti-discrimination laws, that it is done in the most unifying way possible. The general exemption provisions for religious organisations have been a core part of our anti-discrimination laws for a very long period of time. They are symbolic in recognising that there are areas where correct laws and correct approaches to anti-discrimination do potentially clash with the rights of religious institutions to uphold their teachings and their views. To accommodate those rights, there has been a general exemption provided to religious organisations.

It is my understanding that this change that the government seeks to make to this legislation deals particularly with the provision of aged-care services. It is, further, my understanding that the key organisations—the religious organisations and institutions who provide such aged-care services—have made it clear that they do not discriminate in relation to sexuality issues. They do not discriminate in relation to any matters. They say that this really is a matter of principle—the principle being that, if you start to erode that general religious exemption provision in anti-discrimination laws, you will, of course, start to undermine it in other ways which will potentially impinge upon getting and maintaining that appropriate balance between the right to freedom of religion and the right to not be discriminated against.

I would hope that those assurances from those organisations are correct; and I would expect them to be judged very harshly if they are incorrect and those organisations are in any way discriminating on such grounds while providing taxpayer subsidised and supported places. I am disappointed that the government has changed the tone of what should have been very much a unifying debate in terms of this legislation by seeking to make these changes on the floor of the Senate at the Senate stage of debate for a bill.
that has already passed the House of Representatives. I do not know why the government chose to make this last-minute change, and I look forward to hearing during the second reading stage—if indeed there is one in these truncated debates—the government's reasons for making such a change.

Beyond that one area of concern, more broadly, this is a very welcome piece of legislation. The bill extends anti-discrimination protection in Commonwealth law on the grounds of sexual orientation, gender identity and intersex status. As I indicated, the bill follows from the government's abandonment of its Human Rights and Anti-Discrimination Bill on 20 March. Its principal effect is to adopt the recommendation of coalition senators, in the minority report of the Senate committee into that bill, that the Sex Discrimination Act should be amended so that it extends to discrimination on the basis of sexuality. This was the policy which the coalition took to the 2010 election. It remains coalition policy, and it is a very important coalition policy.

Sexual orientation is defined in the bill as a person's sexual orientation towards persons of the same sex, a different sex, or the same and a different sex. The use of 'different' rather than 'opposite' reflects the recognition in the bill of those whose sex is categorised as intersex or by reference to their gender identity. Gender identity is defined as the gender related identity, appearance or mannerisms or other gender related characteristics of a person, whether by way of medical intervention or not, with or without regard to the person's designated sex at birth. Finally, intersex status is defined as the status of having physical, hormonal or genetic features that are neither wholly female nor wholly male, or a combination of female and male, or neither female nor male.

These are important extensions to our anti-discrimination provisions.

The bill will prohibit discrimination on new grounds, which are extended to include areas of work including employment, superannuation, contract workers, partnerships, qualifying bodies, registered industrial organisations, employment agencies, education, goods, services and facilities, accommodation, land, clubs and administration of Commonwealth laws and programs. Exemptions and limitations will apply in relation to membership of voluntary organisations, competitive sporting activity and, as I was discussing earlier, religious organisations, save for the foreshadowed government amendment. New exemptions are introduced in relation to marriage, conduct in compliance with other legislation and keeping of records in relation to sex or gender.

I am very pleased that the government, in bringing this substantial bill to the chamber, has picked up on the recommendations of the minority Senate report of coalition senators into the Human Rights and Anti-Discrimination Bill. That was a substantial piece of work and I particularly pay credit to my colleagues such as Senator Brandis and Senator Humphries for their good work in this place. Anti-discrimination laws should be a unifying feature of debate in this parliament. We have come a very long way.

I was at a function earlier tonight, organised by the Burnet Institute, which marked 30 years since the discovery of HIV. Cast your mind back 30 years to the level of discrimination, fear and concern that existed in parts of our community and to the real concern of what the unknown was in that regard. In relation to sexuality issues we have come a very long way in terms of understanding, acceptance and appropriate recognition. That does not mean that the job
is done. It just means that we have taken a lot of very good steps in the right direction. At its heart this bill is another step in the right direction, adopting change as recommended by the coalition senators. We should continue to strive to minimise and to eliminate discrimination in all of its forms. We must make sure that in doing so we take the community with us and that these laws are enacted with widespread community support.

I note that the coalition will be pursuing another area of amendment. The bill proposes a new exemption for conduct done in direct compliance with a prescribed law of the Commonwealth, a state or a territory. This will only apply to discrimination on the basis of the new grounds. These laws have not been exhaustively identified and will be prescribed by regulation after consultation with the relevant jurisdiction. One relevant example of the need for this exemption is that the legal recognition of a person’s sex is, of course, a matter for the states and territories.

Clause 52 of the bill provides a savings clause in respect of anything done in direct compliance with the law of the Commonwealth or of a state or territory that is prescribed by regulation. This, as the attorneys-general of the three largest states have argued, is an unduly wide vesting of de facto legislative power in the hands of executive government. It also makes the operation of state and territory laws dependent on the making of Commonwealth regulations from time to time, creating unnecessary uncertainty and complexity, particularly where, as in this case, the Commonwealth does not have plenary power. Accordingly, the coalition intends to amend the savings provision to exempt actions that are in accordance with, or necessary to comply with, state or territory laws. This amendment should be read very much as an amendment to try to ensure that the bill can function in a proper way. It should be read as a technical amendment, although it is a very important amendment, to ensure that we do not have a situation where the anti-discrimination laws of the country are being used as some sort of Trojan Horse to trample over the rights of states to legislate in other areas.

I conclude my remarks by acknowledging the intent of this bill and the good work that underlies the introduction of this bill. Once again, I express my disappointment at the approach the government has taken by surprising many with some last-minute amendments to this bill. I do hope the government will consider that it would be far better for this legislation to enjoy unanimous support, and be a unifying step forward, rather than the concerns and criticisms that have come about as a result of the government’s attempt to erode the general religious exemption provisions and the manner in which the government is doing so.

Senator HUMPHRIES (Australian Capital Territory) (20:35): I rise to indicate, for reasons touched on already by Senator Birmingham, that the coalition opposes the amendment move by Senator Wright to this bill, the Sex Discrimination Amendment (Sexual Orientation, Gender Identity and Intersex Status) Bill 2013. It also opposes the amendments moved by the government in the sheet circulated in the chamber, particularly items (1) to (3). The reasons are set out, in large part, in the coalition senators' dissenting contribution to the report of the Legal and Constitutional Affairs Legislation Committee inquiry into this bill. The effect of the amendments, and of the Greens' amendment, is to remove the exemptions previously available to religious organisations which provide aged care.
The government, of course, introduced this legislation without a provision for the removal of such exemptions. It stated, in fact, at the time it moved the original bill, that it was its intention to introduce the relevant protections as a 'first stage of reforms' but to otherwise maintain the existing overall structure of the Sex Discrimination Act, including the exemptions. That situation no longer stands. The government has reversed its position and this amendment takes that protection away for religious organisations which have sought to rely on such exemptions.

The government's amendment will restrict the existing exemption from antidiscrimination law for religious organisations which provide Commonwealth funded aged-care services or accommodation. The government has done so in a manner which has not permitted proper consultation to occur and it has brought this amendment on for debate as a matter of urgency which is, frankly, inexplicable. I remind the Senate that the inquiry into this bill by the Legal and Constitutional Affairs Legislation Committee, as you would well know, Madam Acting Deputy President Crossin, was conducted without public hearings. There may well have been other contributors who would like to have taken part in this matter but who, for reasons which were not apparent when they looked at the original state of the bill, may not have seen the need to actually pursue such matters.

The government says that this amendment is not controversial because it has been welcomed by the majority of religious aged-care providers. However, perusal of submissions provided by religious organisations to the inquiry into the failed Human Rights and Anti-Discrimination Bill and this bill have indicated that this is misleading and that their position is not nearly as uniformly supportive as claimed. For example, while some organisations, such as the Uniting Church, support the removal of the exemption, other large religious institutions have stated that making the link between the government funding and the implementation of the provisions is 'a false way of resolving a conflict between what are competing and legitimate human rights' and that the proposal should not be implemented without extensive consultation. They argued that, while it is not policy to discriminate in any event, religious organisations should be given the opportunity to justify their positions or otherwise in light of the fundamental freedoms of religion and association. This position, or a close variation on it, is also argued by the Australian Catholic Bishops Conference, the Salvation Army, Catholic Health Australia, the Presbyterian Church of Australia and smaller denominations. The providers all indicated that their policy is not to discriminate in practice and, in these circumstances, the need for regulation is not demonstrated. They all complained that consultation has been extremely limited. In these circumstances, the removal of so fundamental a principle as a religious exemption cannot be supported. The coalition therefore will be opposing items (1) to (3) of the government's amendments and Senator Wright's amendment.

I will take the opportunity while on my feet to comment on the coalition amendments since there will not be another opportunity to do that. The amendment is standing in the name of Senator Brandis. The bill proposes a new exemption in clause 52 for conduct done in direct compliance with a prescribed law of the Commonwealth, a state or a territory. This will only apply to discrimination on the basis of the new grounds. These laws will not have been exhaustively identified and will be
prescribed by regulation after consultation with the relevant jurisdiction. One relevant example for the need for this exemption is that the legal recognition of a person's sex is a matter for the states and territories. The attorneys-general of the three largest states have argued that this is an unduly wide vesting of de facto legislative power in the hands of the executive government. It also makes the operation of state and territory laws dependent on the making of government regulations from time to time, creating unnecessary uncertainty and complexity, particularly where, as in this case, the Commonwealth does not have plenary power.

Thus, if a regulation exempting state laws were not made, the Commonwealth's legislation would not necessarily override the state law, as it would not create a direct inconsistency or a so-called 'cover the field' inconsistency if the subject matter of the state legislation were not within the Commonwealth's legislative power. These matters would need to be repeatedly addressed and resolved, including through litigation, in relation to various elements of state legislation operating in various contexts to the detriment of everyone involved. Accordingly, the coalition intends to amend the savings provision to exempt actions that are in accordance with or necessary to comply with state or territory laws. I commend that amendment particularly to the Senate.

Senator EDWARDS (South Australia) (20:41): I rise tonight to speak on the Sex Discrimination Amendment (Sexual Orientation, Gender Identity and Intersex Status) Bill 2013. I take this opportunity while standing here in front of my Senate colleagues—because it is highly unlikely that I will be afforded the opportunity anytime later in the week, given that the government is hell-bent on ramming legislation through this chamber—to wish my Senate colleague Senator Humphries all the very best in his future endeavours. His valedictory will be on Wednesday and, as we have all become aware throughout Australia, this government is going to continue to curtail any debate, discussion or opportunity for Senator Humphries to hear from all of his colleagues when he departs this chamber for the last time on Friday when we rise.

Senator Humphries, in the two years that I have been in this place, you have been a most affable and caring colleague. You have always been available for advice, which you served judiciously with a great deal of knowledge and genuine intent whenever I came to you. I thank you very much for that. In the time that you have been in public life, you have served not only in the ACT government but here in the federal parliament. You have served the people of the Australian Capital Territory with great gusto, great skill and great intelligence, and I am going to sorely miss your contribution. I will sorely miss our walks down to this chamber during divisions, because you are a neighbour of mine. I thank you on behalf of the class of 2010 that came here and used your great spread of knowledge of what happens. I wish you and your family well.

As I said, there are a great deal of things that a lot of people will say on Wednesday, but, cruelly, the opportunity will only be available for a select few. What is happening this week is indeed sad. To you and your family, go well—and thank you very much for your time here. Senator Humphries, it has been a great honour. With that, I will move on to the bill.

Sex discrimination occurs when a person is treated less favourably than a person of the opposite sex would be treated in the same or similar circumstances. It is also sex discrimination when there is a rule or policy that is the same for everyone but which has
an unfair effect on people of a particular sex—this is called indirect discrimination. Everyone has a role to play in helping to build greater equality in Australia. However, once again we are seeing an example of Labor and its intention of imposing a nanny state on all Australians.

This bill represents another embarrassing act of the Gillard government. This bill will inhibit freedom of speech and opinion, a right that is so deeply entrenched and valued by Australian society. Australia deserves a government that does not drive a social-engineering agenda. Widespread community opinion opposes this bill but we continue to see this Labor government making laws that do not reflect the needs and wants of the Australian people. The coalition supports anti-discrimination law, but we believe the purpose of anti-discrimination law to be to protect those vulnerable to unfair discrimination on grounds such as ethnicity, gender, sexuality or disability.

The bill's principal effect is to adopt the recommendations of coalition senators in the minority report, which Senator Humphries referred to earlier, of the Senate Legal and Constitutional Affairs Legislation Committee inquiry into this bill that the Sex Discrimination Act should be amended so that it extends to discrimination on the basis of sexuality. It should be noted that this was the policy which the coalition took to the 2010 election. It remains coalition policy, which the government has now adopted. While the coalition supported the passage of this bill through the House, we are looking to move amendments in the Senate.

I turn to more general comments about the debate in the community of these kinds of issues. This is an issue which has engaged a wide range of very passionate people in the electorate. It is one thing to have a debate in the community about an issue—in this case sex discrimination—but it is another thing altogether when the debate turns vitriolic and personal. On the extremes of both sides—I am pleased to say that it is only a small minority—there are some truly horrible things being said about the other side. The deeply conservative in the community are making wild accusations about extending anti-discrimination protection to everybody in society. On the other side extreme supporters call those on the conservative side homophobes and bigots. It is just not nice. It is divisive and is not the Australian way. I particularly do not appreciate being spammed by people using abusive and personal rhetoric. As Guy Sebastian's hit song asks: why can't we just get along? We heard that last week from you, Madam Acting Deputy President Crossin, in your valedictory speech—why can't we just get along?

Before I came to this place I ran a number of businesses. I am fortunate enough still to have those businesses, but they are being run by other people. While I was at the helm I employed a diversity of people to work in those businesses. Never once did it occur to me that I should employ or not employ anyone on any basis other than merit and their ability to execute the functions of the job. That remains my ethic and my modus operandi today. Over the years, I have employed all of the gender groups that are discussed in this bill and none has ever failed me on the basis of their sexuality, gender or otherwise. Unfortunately, it seems that not everyone in our society is as in tune with 21st century Australia as I aspire to be. Hence our need to have anti-discrimination protection.

The Senate committee inquiry drew a range of diverse views on the bill. While we do not support this specific bill there are a number of ongoing issues that must be addressed in the GLBTI—gay, lesbian,
Monday, 24 June 2013
SENATE
3825

bisexual, transgender and intersex—community that this bill, even if passed, would not completely resolve. The AIDS Council of my home state of South Australia highlighted in the executive summary of their submission to the inquiry into this bill: GLBTI populations experience lower levels of health and wellbeing (compared to opposite-sex attracted populations) that is directly attributable to the marginalisation, institutionalised homophobia, heteronormativity and the outright discrimination that still exists in Australia.

While the AIDS Council of South Australia supported the bill, there were a number of organisations—peak representative groups and others—which opposed the bill outright or had doubts about whether it was the best way to protect people against discrimination. As a side note, I make mention of the fact that there appear to be only three submissions from my home state of South Australia. It is disappointing that other peak bodies from South Australia did not contribute. I think that, given the significance of these issues, we need to arrive at a much greater consensus in the community before passing such important legislation. It is not an easy topic of conversation for many. That is not to say that one day it will be easy or that it should not be an easy conversation to have.

But we have to remember how far this debate has come just in our lifetimes. When I was young—younger!—even discussing homosexuality was considered a taboo, let alone the discussion for anyone who was openly gay. Now, all these years later, it is much easier for people to be who they are, openly. The younger people in my life, whether they be my children, my children's friends or staff members, just do not see what all the fuss is about when it comes to people from the gay, lesbian, bisexual, transgender and intersex community. This is in no way to say that further work is not needed, and that we as a society cannot continue to be more open and more inclusive.

This legislation, in our opinion, does not progress the debate in the best way. The coalition senators—you heard from Senator Humphries and our colleague Senator Boyce; and I congratulate them on their hard work—put forward a minority dissenting report. In the report the coalition senators indicated their broad support of the bill and acknowledged that discrimination on the grounds of sexuality or sexual orientation runs counter to the essential tolerance and inclusiveness which characterises Australian society today.

They also acknowledged that there are conspicuous gaps in the present array of federal human rights legislation in dealing with the sometimes complex issues of a person's sexual identity. However, coalition senators could not support a recommendation in the report which proposed that religious organisations not be entitled to an exemption in respect of sexual orientation, gender identity and intersex status in connection with the provision of the Commonwealth funded aged care services. In the opinion of coalition senators the removal of such an exemption could compromise the capacity of some of those religious organisations to operate aged care facilities in accordance with the principles which underpin and define their existence. Those people carry out a great function in our society. Obviously, in the way in which we normalise our Australian way of life we have to expect that religious groups hold certain views and offer certain services on the basis of those views, and that you can participate or not participate in taking up those services based on the value beliefs that they hold.

Importantly, the coalition did not believe that the committee majority adequately
addressed the operational concerns of some religious bodies operating faith centred services. It is hard to understand why such operational considerations would be taken into account and exempted under legislation in respect of the operational, education or health facilities but not in relation to aged care facilities, where nearly identical concerns arise.

This legislation presented an opportunity for multi-partisan reform of the laws as they affect discrimination against lesbian, gay, bisexual, transgender and intersex people. The inclusion of recommendation 1 in the majority report, however, fails to acknowledge the strong differences of views presented to the committee on the question of aged care services, and thus undermines the opportunity for a multipartisan approach.

In the minority report by coalition senators, the coalition senators' sole recommendation was as follows:

That the Sex Discrimination Amendment (Sexual Orientation, Gender Identity and Intersex Status) Bill 2013 stand as presented, i.e. that it continue to provide that religious exemptions in section 37 of the Sex Discrimination Act 1984 apply in respect of sexual orientation, gender identity and intersex status in connection with the provision of Commonwealth-funded aged care services.

I strongly support the extension of the protection of anti-discrimination law on the grounds of sexual orientation, gender identity and intersex status. However, I, along with the coalition members, am not content that a bill which, in its original iteration, had our strong support, will be subject to an amendment which we cannot support in these circumstances.

I therefore urge the chamber to reject the Greens' amendments and the hastily rushed-in government amendments, and adopt the coalition amendments. I point out, in the one minute and 37 seconds to go, that there are some five speakers who are likely to be gagged from this debate. It is another example of the dysfunction that has beset this government. As I stand here it is not apparent who is going to lead the Labor Party as of the end of the week in this country, and who will be the Prime Minister. Therefore, on two occasions today I have been usurped and not allowed to be heard with regard to two pieces of legislation which I feel strongly about.

I have been gagged. We have 45 seconds to go but I know that Senator Back wanted to say something meaningful. It is very difficult to get something said in 30 seconds, so I register my protest. It is a raffle in here at the moment as to whether you get to speak. Is that democracy? No, it is not. I register my protest. I am most indignant about being cut off from all the debates which are being rushed through.

I will be indignant for a very long time. There is a very, very bad smell about this place this week, and I suggest that any perpetuation of this kind of chamber behaviour—(Time expired)

The ACTING DEPUTY PRESIDENT (Senator Crossin): Order! The time allotted for consideration of this bill has expired. The question is that the second reading amendment moved by Senator Wright be agreed to.

Question negatived.

The ACTING DEPUTY PRESIDENT: The question is now that the bill be read a second time.

Question agreed to.

Bill read a second time.

Senator McLUCAS (Queensland—Minister for Human Services) (21:01): I table a supplementary explanatory memorandum relating to the government amendments moved to this bill.
The ACTING DEPUTY PRESIDENT: I am now going to put the question that amendments (1) to (5) on sheet AG264—

Senator HUMPHRIES (Australian Capital Territory) (21:01): Acting Deputy President, I ask that the amendments be divided between amendments (1) to (3), amendment (4), and amendment (5).

The ACTING DEPUTY PRESIDENT: All right. Then the question now is that amendments (1) to (3) on sheet AG264, as circulated by the government, be agreed to.

The Senate divided. [21:06]

(The President—Senator Hogg)

AYES

- Bilyk, CL
- Boyce, SK
- Cameron, DN
- Collins, JMA
- Di Natale, R
- Faulkner, J
- Gallagher, AM
- Hogg, JJ
- Ludlam, S
- Lundy, KA
- McEwen, A
- Milne, C
- Pratt, LC
- Siewert, R
- Stephens, U
- Thorp, LE
- Waters, LJ
- Wong, P

Bishop, TM
Brown, CL (teller)
Carr, KJ
Crossin, P
Feeney, D
Hanson-Young, SC
Ludwig, S
Ludwig, JW
McLucas, J
Moore, CM
Rhiannon, L
Singh, LM
Sterle, G
Urquhart, AE
Whish-Wilson, PS
Wright, PL

NOES

- Parry, S
- Ronaldson, M
- Ryan, SM
- Sinodinos, A
- Xenophon, N

Payne, MA
Ruston, A
Scullion, NG
Williams, JR

PAIRS

- Carr, RJ
- Conroy, SM
- Furner, ML
- Polley, H
- Thistlethwaite, M

Brandis, GH
Johnston, D
Heffernan, W
Boswell, RLD
Cormann, M

The PRESIDENT (21:08): The question now is that amendments (4) and (5) on sheet AG264 circulated by the government be agreed to.

Question agreed to.

The PRESIDENT: The question now is that amendment (1) on sheet 7403 circulated by the opposition be agreed to.

Question negatived.

Third Reading

The PRESIDENT (21:09): The question now is that the remaining stages of this bill be agreed to and this bill as amended be now passed.

Question agreed to.

Bill read a third time.

Australian Sports Anti-Doping Authority Amendment Bill 2013

Second Reading

Debate resumed on the motion:

That this bill be now read a second time.

Senator HUMPHRIES (Australian Capital Territory) (21:10): Tonight the Senate is asked to consider the Australian Sports Anti-Doping Authority Amendment Bill 2013 and it has approximately 35 minutes in which to do so. That is, to be frank, an absolute disgrace.
This is a piece of legislation that has been controversial, which has divided the sports community in Australia and which represents a significant new direction in the enforcement of policies on the use of drugs in sport. It comes in the wake of a media conference held in January this year, presided over by the sports minister, Senator Lundy. It constituted a very significant watershed on these issues within Australian sports administration. And yet we are asked to deal with the complex issues—including government and Greens amendments to this legislation—in the space of 35 minutes. That is entirely unsatisfactory, Madam Acting Deputy President Crossin.

Although it is likely that a measure of consensus will be discovered on the amendments, this is precisely the kind of debate where the Senate would have had great benefit in having an extensive discussion of the issues that are raised in these amendments. But that opportunity is being denied us because this government needs to, again, rush through this parliament a raft of changes to the laws of Australia, which leave the proper scrutiny processes of the parliament in some disarray and which may well result in the need to revisit some of these issues in the future as it is determined that the policies rolled out in such haste may not be the right ones to deal with the problem of illicit and unauthorised drugs in sport.

Australians are renowned around the world for their passion for sport—almost any sport—and their concomitant sense of fair play. As a nation we pride ourselves on the strength of our local sporting competitions and we take pride in the results of our athletes in fields of competition such as the Olympics, Commonwealth Games, test cricket, soccer world cups—in fact, almost any kind of international competition where Australia fields sports men and women. Cheating in sport, therefore, strikes at the heart of our sense of fairness and decency, even at our national self-image. We have never accepted the principle of winning at all costs. Our national psyche is not of that kind, unlike some nations in international competition. Over the years we have established bodies to deal with such problems as soon as they have been identified by governments and we have swiftly introduced new legislation to deal with evolving issues. That is why, in March 2006, the Australian Sports Anti-Doping Authority was established by the Howard government as a commitment to maintaining world-class standards in response to the use of drugs in sport.

The Howard government made sure that the public had complete confidence in our national sports and the authority was able to investigate and pursue those athletes who cheated. ASADA was established by the Howard government to protect Australia's sporting integrity and our national self-image for fair play through a concerted attack on doping in sport.

I think we are all conscious, as great participants or great observers of sport in this country, of changes that were happening in professional sport in particular in this country and around the world with the insidious penetration of performance-enhancing drugs and illicit drugs into the sphere of sport. But something dramatic happened earlier this year, with a nationally televised press conference on 7 February, hosted, as I said, by the Minister for Sport, about the issue of drugs in sport—I referred earlier to it being in January, of course it was in February. Minister Lundy convened a national press conference with all the major sports codes lined up next to her, plus the Australian Crime Commission, and painted a fairly dire picture of what is taking place with respect to the use of drugs in sport. That
let the impression be created that there is a profound penetration by those drugs into many areas of sport, but the exercise was completed without establishing a clear picture of where precisely this problem is falling or precisely what sports, what clubs and what individuals are in the spotlight.

I accept, of course, that it is important for processes set in train by any government authority or prosecutorial agency to be able to run their course without any question of their work being interfered with by disclosure of matters which are properly kept secret until proper steps can be taken to pursue them in a court or whatever other tribunal or body such matters are determined in. But I think it is true to say that Australian sport was left in a profoundly unsettled state as a result of that exercise. Five major sporting codes lined up that day beside the minister. It was made clear that those codes did not necessarily represent the cockpit of the problem that the minister was describing, but they sat beside her nonetheless as the press conference unfolded.

At this point in time, a number of important investigations are underway. These investigations are being overseen principally by ASADA, which is pursuing those cases of drugs in sport that have been brought to the attention of that body. It is useful to bear in mind, however, what has been done before this most recent development in the drugs in sport saga. The annual report of ASADA for 2011-12 details the kind of testing which has already been going on in recent years with respect to identifying and weeding out use of drugs in sport. The annual report indicated that during 2011-12 ASADA conducted 3,996 government funded tests across 45 sports and 3,200 user pays tests for Australian sporting bodies and other organisations. There were 11,395 participants who completed an ASADA education activity. The popularity of the online education tool 'Check your substances', which enables athletes to find out whether specific medications and substances are permitted or prohibited in their sport, continued to grow, with almost 50,000 visits to the site. That is all, as far as it goes, very welcome and very positive. But, of course, the gears were shifted up in this matter with the press conference earlier this year and the question now remains of what extra penetration is taking place into Australian sport which the tests and the preventative measures I have just referred to were unable to prevent or detect.

In the estimates committee hearings conducted recently, there were extensive questions about the state of those investigations and ASADA indicated that they were unable to be helpful to the committee with respect to what is going on. I do not begrudge ASADA being tight-lipped about that. I appreciate that it is absolutely critical that anything they might be doing with respect to pursuing such people or organisations ought not to be in any way interfered with by an exercise of accountability which takes place in this Senate or in other places where proper scrutiny is conducted. But I also think it is important for the Australian government, as soon as it possibly can, within the bounds of those investigations, to restore as much confidence as it can to Australians about the shape and the nature of the threat of drugs in sport at the earliest juncture. It is obviously dangerous to have sports in this country which have been tainted, whether expressly or by implication, and to have young people who may be starting out in those sports unsure of what that means for their future participation in the sport—not knowing whether their heroes and heroines in that sport are the kinds of people being affected by these changes.
I appreciate that the government has a fine line to tread here, but I also believe that the situation today is not a positive one for Australian sport. I hope and I trust that the government has a plan to deliver the kind of certainty I have just appealed for at the point when the current crop of ASADA investigations, which are being conducted, I understand, in conjunction with the Australian Crime Commission, bear fruit—because investigations of an unspecified kind which continue for an indeterminate period into the future, never to be finally or conclusively resolved, leave huge unanswered questions over Australian sport. I am sure that Australian sports men and women, the organisations that represent them and the sports in which they compete would want that cloud to be taken away, if that were humanly possible, at the earliest juncture.

The government moved originally a bill which attracted considerable debate and concern. The bill contained measures which removed a number of the privileges and rights at law which an Australian might expect to be able to enjoy were they charged, for example, with a criminal offence in an equivalent way. I am pleased to say that, after some reaction and some negotiation, the government has decided to moderate that position. That moderation is represented in the amendments which appear before the Senate today.

On behalf of the opposition, we are still concerned about where we are left by this process. We are persuadable but not fully persuaded that we have reached the point where we have got the balance right. We are prepared to give these amendments the benefit of the doubt but we, at the same time, implore the government to: move to provide certainty for Australian sport as soon as it can; use the powers conferred on ASADA in this legislation, as tempered by the amendments, to reach conclusions as soon as it can about what is the appropriate nature of the threat of drugs in sport; and allow those sports which have regimes in place to identify and deal with cheats to get on with the business of providing their sports, without a sense of threat hanging over them because of the broad nature of the attacks that have been made on cheating in sport in this country.

I commend the government's willingness to at least consider and take on board changes to ensure that this process has not led to an unnecessarily onerous regime depriving Australians of the rights that they otherwise would expect to enjoy if they find themselves in the firing line, changes which I hope provide the necessary tools to let the government get to the bottom of these problems.

Finally, I appeal for the government to do what it can to remove this dark cloud over Australian sport so that all Australian sports men and women can know where they stand very clearly at the very earliest opportunity with respect to the sports in which they compete.

Senator DI NATALE (Victoria) (21:25): I welcome the opportunity today to speak to the Australian Sports Anti-Doping Authority Amendment Bill 2013. The revelations earlier this year following a 12-month investigation by the Australian Crime Commission that organised crime is behind the increase in the use of banned performance enhancing drugs across our major sporting codes, and possible attempts to fix matches and manipulate the betting markets, came as a shock to many people. It was labelled the blackest day in Australian sport by some and it was in part the catalyst for the legislation we are debating today.

We are told the bill is important to protect sport from the influence of organised crime
and from the drug cheats. It is important that we, as part of this process, protect what is called ‘the integrity of sport’. I have heard that phrase used a lot over recent months and I have really tried to understand what that means. To understand what it means, you really need to reflect on what sport means to most Australians.

Sport has always been a huge part of my life. My mum reckons I was an active kid and it was my love of sport that kept both of us sane: swimming at the local swimming club, street cricket matches, club soccer, club footy, club cricket—all of those things of a weekend. It was an experience that is no different to the experience of many Australian kids.

We are a sporting country; we love to play sport; we love to watch sport. Often the success of our weekend at home depends on the success of our local footy team. Some people do worry that we are too obsessed with sport and that our obsession clouds out more important, more noble pursuits. But it is a view that ignores a lot of really good things about sport: the huge health benefits; the lessons from working in a team environment, learning to respect rules and the umpire’s final decision; and the role it plays in bringing communities together. And sport, above all, is a great leveller. It does not matter who you are, it does not matter where you come from; ultimately, sport brings people together just to share in the sheer joy of it all.

Some people think of this as an overly romantic view and that somehow by accepting that view you are ignoring what are some of the many threats to Australian sport. But I am very aware of those threats. One avenue by which the integrity of our sports is threatened is via the connection with gambling. I have made no secret of my concern at the increased number of gambling services around live and televised sport in this country. I know many people right around the country share my concerns that a professional sporting activity somehow now becomes an interactive gambling experience. It is something we are working very hard to change.

One of the greatest threats to the integrity of sport is the use of illegal performance-enhancing substances. It is a threat because the very essence of sport is that it is an even contest—a contest between athletes who, as a result of their innate abilities, hard work and determination, are pitted against each other on a level playing field.

Some people argue that this is all too difficult—it is too hard—and that we should simply lift the ban on performance-enhancing drugs and just ensure that the playing field is level and that everybody gets access to the same drugs. They say that we are fighting a losing battle and so that is the approach to take. But it is a very dangerous argument. Imagine the choice that we would be giving to athletes: participate in this pharmacological arms race and put yourself at risk of very serious harm or give up a competitive edge to an opponent. We really need to do what we can to try and address the problem.

It is a difficult problem, because the temptation to use banned substances to get an edge over the competition has always been too much for some people. I can imagine what it would be like to have spent your whole life working towards a goal and then to have that achievement snatched away from you because an opponent had an unfair advantage. Australians rightly take doping very seriously. We have a strong sense of fairness. We understand that there is no room for drug cheats in Australian sport.

There are some people who deliberately, knowingly and with great planning and
preparation set out to cheat in an effort to get an unfair advantage. Those people deserve to be punished. But it is also important to acknowledge that that is really only one part of the problem and that, in fact, doping can be much more subtle and much more insidious. It is a much bigger problem than simply that of unethical athletes willing to cross the line just to get an unfair advantage. We have to accept that modern sport is an industry. It is big business. Many athletes are not sole traders but are part of larger team environments. They are surrounded by coaches, trainers, doctors, nutritionists, physios, sports scientists and so on. And all of them are under tremendous pressure to perform. Among that team of people there will sometimes be disagreement on where the line between doping and legitimate sports science is drawn.

Even when you consider the money at stake and the huge amount of public scrutiny, it is hard to imagine the pressure on a young athlete. Imagine that you are a 17-year-old kid from the country. You have finally achieved your dream of playing AFL football. You find yourself in a team environment in which particular practices appear to be the norm. You would not expect that individual to be abreast of the latest in sports science. In fact, as a medical doctor it is hard enough to keep up with this stuff. Some of the substances that have been reported in the papers are things that I have never heard of and I really have very little information about whether they are legal or illegal or, in fact, whether they are putting people at risk of serious harm. The difference between a peptide and a protein milkshake might not be as clear to some as it should be.

It is true that athletes will always bear ultimate responsibility for what goes into their bodies and pay the price when mistakes are made. But if athletes and entire teams are found to have wandered into the doping grey areas and beyond, it is as much an organisational failure as a case of individual cheating by athletes.

So far, anti-doping efforts have focused on testing. Testing is of course the clearest and most obvious way of identifying a drug cheat in any sport. But because of the need for constant randomised testing it is also important to acknowledge that elite athletes make a huge sacrifice for their sport in terms of their personal privacy. Their whereabouts are constantly monitored. They suffer various indignities in delivering samples. But it is a sacrifice that they make willingly. The athletes are as concerned as anyone about ensuring that there is a level playing field.

But testing is only ever going to be a small part of the answer, because there are always people willing to push the boundaries who will be one step ahead of the testing. This is a very sophisticated and organised process. If people set out to cheat deliberately, there is every chance that they will not be caught through testing. It is thus important to shift our efforts beyond testing to a process of investigation. The Greens agree that there is a very important role for ASADA outside the testing regime.

It is these long and detailed investigations that will uncover the real story behind many cases of doping, both deliberate and inadvertent. And it is not just about the athletes: it is about the suppliers, the support staff and, in some cases, the involvement of organised crime.

Doping in sport is an issue that has always plagued professional sport and it will continue to do so. That is particularly true as the stakes in professional sport get higher every year. The search for an edge will become all the more intense. We will never be completely free of doping. But we can have certainty that it is only a very small part
of the sporting landscape. We need to recognise the intense pressure that our athletes are under, pressure which stems from the huge amount of national attention, the billion dollar revenues and the winning-at-all-costs culture that has developed in many of our sporting codes. A big cultural shift is required. It does not appear to be on the horizon or as if it is going to happen any time soon. But, in the meantime, we must do what we can to stem the problem.

Fortunately, Australia can boast in ASADA an agency that has high standards and an excellent reputation. We now have John Fahey as the head of the World Anti-Doping Authority. We are doing well in this space. This bill, I hope, will go some way to furthering the ability of Australian authorities to conduct the sophisticated investigations that we need. But we need to do much more. It is important that we also tackle those broader cultural issues around our major sporting codes.

The bill amends the Australian Sports Anti-Doping Authority Act to grant new powers to ASADA. For the first time they will have the power to compel people to attend interviews, and those who refuse to comply with a disclosure notice from the authority's CEO face fines in the many thousands of dollars. A person issued with a disclosure notice can be required to attend an interview and provide documents and other information. Also, the bill, as written, compels a person who has been called in to provide some evidence. I accept the justification for this provision. I understand it, but it is also important that those provisions are viewed in the context of the impact they have on individual liberties.

If the authority has good reason to suspect something is going on that is against the code, the investigation can be hampered if individuals refuse to cooperate. We are all well aware of some of the issues that have recently transpired with scandals around our major sporting codes, and cycling as well. It is true that we do need to get to the bottom of the issue, and I understand the reasons for granting ASADA increased powers.

But it is also our job in this parliament to examine any expansion in the powers of any government agency. While we want the sporting authorities to be able to carry out their mandate of safeguarding integrity in sport, the rights of the athletes and the support personnel also have to be safeguarded. During the course of the inquiry we heard many concerns from the community about some aspects of the bill. The powers were described as broad and sweeping. We heard the legal fraternity describe some of their concerns around the implications for justice. The Commercial Bar Association of Victoria described the provision granting coercive powers as an unjustified infringement of the athletes' human rights. We also heard concerns from the Scrutiny of Bills Committee, the Parliamentary Joint Committee on Human Rights and others about issues such as privacy, the reversal of the onus of proof, the potential to compromise a fair trial and the unprecedented nature of coercive powers granted to ASADA.

It is my view that the privilege against self-incrimination is fundamental in our democratic system of justice and forcing an athlete or support personnel to give evidence, even if it could compromise their own career, does fly in the face of this principle. Serious concerns were raised about this specific issue. Subjects of a disclosure notice who are asked to produce documents have to prove that they do not have them. The onus of proof is then placed on the athlete, and that needs careful consideration. I am also worried about doctor/patient confidentiality and whether that could be compromised if an
athlete's doctor is brought in for questioning. The line between doping related and general health matters can be a fine line to draw.

The Australian Greens do share some of these concerns. When I originally was confronted with this bill, in my capacity as the Greens spokesperson for sport, I thought we would be dealing with a non-controversial piece of legislation, particularly in the context of the recent Australian Crime Commission report. But it soon became clear that the bill does represent a major expansion of ASADA's investigative powers and does in fact touch on some very fundamental legal principles.

We do not want to unfairly reduce the freedoms of Australian sports people, so we have to satisfy ourselves that these new powers will have an impact on Australian sport and then balance that against the infringement of the individual liberties of Australian sportspeople. It has been represented to me that these new powers could have the perverse effect of decreasing cooperation with investigations by complicating the relationship between athletes and ASADA, and that also needs to be considered.

I have weighed up these objections carefully. I am very concerned about the burden on athletes. I do understand that athletes already make huge sacrifices in their sport and that they are subject to regular and random testing under extremely intrusive circumstances, as it currently stands. Further singling out athletes with coercive powers might be a step too far.

To be satisfied that these new coercive powers were necessary we needed to be sure that there was evidence of people not cooperating and that the powers would make a difference. Part of that discussion, with Australia's role as a world leader in anti-doping, was that WADA did not request these changes, so we needed to make sure they were appropriate in the Australian context.

To decide where the balance lay between protecting the integrity of sport and protecting individual liberties and human rights, we decided that the bill needed some checks and balances. We decided it was not appropriate to abrogate the privilege against self-incrimination—that athletes have as much right to this protection as a suspect facing the police for an interview in a criminal matter. For this reason we have proposed amendments that make it clear the subject of a disclosure notice has the right to remain silent should they so choose.

With regard to the reversal of the onus of proof regarding documents, we accept this if the onus can be satisfied with a statutory declaration. We understand that the penalty of perjury should be enough of a disincentive. We propose amendments to the bill to make it clear that a statutory declaration will suffice.

In response to the concerns regarding oversight of the ASADA CEO's use of new coercive powers, we consulted with the government on an amendment that would require the consent of additional members of the Anti-Doping Rule Violation Panel. We believe that coercion is a serious power and we would not agree to grant it without this level of oversight. We also propose an amendment that makes it clear a doctor cannot be brought in to give evidence unless there is reasonable suspicion they have been involved in a violation of the anti-doping rules.

In conclusion, the Australian Greens do place a high value on sport and the integrity of sport. Recent developments have raised serious questions about what is going on inside our major sporting codes. Ultimately we do accept the argument that ASADA
needs further powers to expand its investigations into doping, but those powers need to be limited and they need to be fully compatible with fundamental legal and human rights that we value so highly in this country.

Finally, I want to say that it is important that we do not look just at the athletes but also at the support structures around the athletes. Where there is a problem, it needs to be traced all the way down the line, because ultimately this is a shared responsibility. At the end, we need to accept that it is not just through investigation but also by changing the current culture—the ‘winning at all costs’ culture—that we will make the greatest gains.

The ACTING DEPUTY PRESIDENT (Senator Stephens): Order! The time allotted for consideration of this bill has now expired. The question is that this bill be now read a second time.

Question agreed to.

The ACTING DEPUTY PRESIDENT: The question now is that amendments (1) to (8) on sheet AL250 circulated by the government be agreed to.

Question agreed to.

Third Reading

The ACTING DEPUTY PRESIDENT: The question now is that the remaining stages of this bill be agreed to and this bill as amended be now passed.

Question agreed to.

Bill read a third time.

Superannuation Legislation Amendment (Service Providers and Other Governance Measures) Bill 2013

Superannuation Laws Amendment (MySuper Capital Gains Tax Relief and Other Measures) Bill 2013

Tax and Superannuation Laws Amendment (Increased Concessional Contributions Cap and Other Measures) Bill 2013

Superannuation (Sustaining the Superannuation Contribution Concession) Imposition Bill 2013

Second Reading

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

Senator CORMANN (Western Australia) (21:47): I rise to speak on the Superannuation Legislation Amendment (Service Providers and Other Governance Measures) Bill 2013 and related bills. The handling of superannuation policy and legislation by the Rudd and Gillard Labor governments has been nothing short of disgraceful. As I travel around Australia and speak to Australians saving for their retirement—Australians working hard, trying
to do the right thing to get themselves in a position to be able to look after their own needs in retirement so that they do not have to be a burden on the public purse by having to rely on the aged pension—they invariably complain to me about the constant chopping and changing and the constant chaos in the way this Labor government has approached superannuation laws. Remember, in the lead-up to the 2007 election the then opposition leader, Kevin Rudd, said that there would be no change to superannuation—not one jot, not one tittle, he said.

But since then, between then Prime Minister Rudd and current Prime Minister Gillard, they have imposed almost $9 billion of additional taxes on people's retirement savings—almost $9 billion of additional taxes to plug their budget black hole, which is coming straight out of people's retirement savings. They promised no change but of course this dishonest government immediately, in its first budget, slashed concessional contribution caps from $100,000 for people over 50, over time, to just $25,000. And right now concessional contribution caps across the board are down to $25,000—which means in practice that any Australian who wants to save more than $25,000 towards their retirement has to pay top marginal tax on that 46½ per cent. Why would anyone agree to lock more than $25,000 a year into their superannuation if they have to pay more tax than they might have to pay on their take-home pay?

So, we have had the increased taxes because this is a government that has fundamentally mismanaged the budget. They have spent $220 billion more than they have raised in revenue, even though they have benefited from the best terms of trade in 140 years, because they spent too much. And people across Australia—doing the right thing, working hard, saving for their retirement—have been asked to pay the price. But increased taxes were not enough. The government also had to impose massive regulatory change without going through proper process, without trying to test the cost-benefit equation and without making sure that the additional cost that is ultimately imposed on people saving for their retirement delivers a proportionate benefit. Conservative estimates across the industry are that the increased red tape imposed by the Rudd and Gillard Labor governments will cost about $1½ billion just to implement and many hundreds of millions of dollars in additional compliance costs year in year out, which will come straight out of people's retirement savings and superannuation accounts.

And here we are: for the last three years the government has said, 'We're going to legislate the regulatory framework for those Australians who do not make active choices in relation to their superannuation'—legislate the consumer protection framework for those Australians who find themselves in default super arrangements—'we're going to call it MySuper, and it's going to come into effect on 1 July 2013.' Guess what? 1 July 2013 is less than a week away. And here we are dealing with the fourth tranche of the so-called MySuper bills in relation to legislation that is supposed to come into effect and be implemented in less than a week from now, and major businesses across Australia that are looking after people's retirement savings are expected to comply from day one.

It is incompetence writ large, but that is what we have become used to with this government. Over the last three years particularly, under the leadership of the current Prime Minister and with the current minister for superannuation, this government has been chaotic, dysfunctional, divided and fundamentally incompetent. People across Australia are on the receiving end of all of that dysfunction, division and incompetence.
Not only do people have to pay more tax when they were promised no change and no increases in tax, they also have to pay higher fees as a result of all of the chopping and changing and the additional red tape that the government has imposed without going through a proper cost-benefit analysis or proper regulatory impact assessments.

Because of the truncated nature of the way in which this legislation has been dealt with—because of the government's running so hard into the wind—businesses across Australia are exposed to higher costs than they would have been if the government had handled this legislation competently and professionally. We have a minister for superannuation who is so distracted from his portfolio that he cannot possibly focus on what needs to be done to ensure a proper and orderly process. If Minister Shorten were as focused on his superannuation portfolio as he is on his other extracurricular activities, he would have done much better for people across Australia saving for their retirement.

In 2007, people were promised no change, but the government slashed concessional contribution caps from $100,000 down to $25,000 and progressively slashed the superannuation co-contribution benefits for low-income earners from $1,500 for every $1,000 saved down to just $500 for every $1,000 saved—saving about $3.3 billion in the process at the expense of low-income earners. In the lead-up to the 2010 election we had another pre-election lie from this government. We now have, in this bill, another broken promise from a Gillard Labor government which clearly cannot be trusted.

In the lead-up to the last election, we were told that the concessional contribution cap for people over 50 with super balances of less than half a million dollars would be increased to $50,000 from 1 July 2013. Actually, it was initially to be from 1 July 2012, but that was deferred. Now, instead of getting an increase to $50,000 for people over 50, as promised, we are getting an increase to just $35,000 for people over 60 from 1 July 2013—not to $50,000 but just to $35,000.

An honourable senator interjecting—

Senator CORMANN: As Senator Boyce said, why would anyone be surprised, because this government lies. This government lies. Here we have the minister for superannuation out there, jumping up and down and talking about the fact that a coalition government would scrap the low-income super tax offset. Let me make this prediction: if the Labor Party happen to be returned to government on September 14, the Labor Party would scrap the low-income super tax offset because they cannot afford it. That is what they have done in the past; that is what they will do in the future. Because Labor's record on superannuation is to promise the world in the lead-up to the election—they promised no change, in the lead-up to the 2007 election, and an increase back to $50,000 concessional caps for people over 50 after the 2010 election—and then, after the election, target low- and middle-income earners with additional taxes on their superannuation. They will pursue the pre-election rhetoric of 'target the rich'—those 'bastards' that are not paying their fair share of tax—before an election to get people on board and then, after the election, just press ahead, as they have done in the past, targeting low- and middle-income earners with increased taxes and red tape.

Here we are dealing with the fourth tranche of the MySuper bill which is implementing a series of corporate governance changes. But one corporate governance change which the government has not touched, because their paymasters in the union movement do not want them to touch it, is the very sensible and very
important recommendation of the Cooper review into superannuation that at least one third of directors on industry fund boards should be independent directors. The Cooper review, initiated by this government, came to the conclusion in 2012 when they reported that it is no longer appropriate to have corporate governance arrangements based on the so-called equal representation model. Superannuation today is big business, and the thought that you could have some cosy arrangement with union representatives in charge and employer representatives making up the numbers as an appropriate corporate governance model for superannuation that is looking after people's retirement savings in 2013 is just completely unacceptable.

Superannuation boards, like all other boards of major businesses, should have appropriately high corporate governance standards. They should have an appropriate diversity of skills and experiences represented on their boards. There should be independent directors who are not linked either to the union interests or to the employer organisational interests but will take a dispassionate view, including on behalf of those fund members that are represented by neither a union nor an employer organisation. That was the very sensible view promoted by the Cooper review.

Guess what? When we moved that amendment in the House of Representatives, the House agreed with us. The House of Representatives voted for our amendment 72-68. But guess what happened then? The phones started ringing hot. All of the union bods that are keeping the Gillard government in power, all of the union bods that are making sure that Ms Gillard remains as the Prime Minister until the job is done, said, 'You have got to fix that. Go back in. Fix it.' Fix it they did. They forced the House of Representatives to remove what was a good amendment that implemented good policy, which was consistent with the government's own Cooper review recommendations and the coalition's policy. But, clearly, it was not consistent with the vested interests of the union bosses that are running the show in the Labor Party. So, here we are, dealing with this bill again. I can confirm that the coalition will again move that set of amendments. Hopefully the Greens will see the merit in ensuring that there is a diversity of skills and experiences for competency on boards and will vote for proper corporate governance.

I have to pause here. The intriguing thing about what happened in the House of Representatives is that, ultimately, what helped Labor do the bidding of their union bosses by removing that very sensible amendment was the support at the final hour of Independents such as Mr Windsor in the seat of New England and Mr Oakeshott in the seat of Lyne. I use the word 'Independents' loosely because I would say that they are fully paid-up members of the Labor Party, or they may as well be. We have this ludicrous situation where the so-called Independent members of parliament in the House of Representatives voted against independent directors on boards. I ask the question: what do the Independents have against independence? Why can't the Independents see the sense of having proper independent representation on superannuation boards which are currently filled with union hacks and employer representatives? Surely the Independents would have seen the merit in having independent directors as part of good corporate governance. If ever anyone wanted to see evidence that the Independents are fully signed-up members of the Labor Party, or may as well be, that was one key example.

Then we have the MySuper legislation which is supposed to enshrine in legislation
the default fund arrangements, the concealed protection arrangements, that should apply to Australians who do not make active choices in relation to their own superannuation. But guess what? This government actually does not trust its own legislation. Here we are debating the fourth tranche and, if it passes the Senate, it becomes law on 1 July 2013. This government does not trust its own legislation and says, 'We can't possibly allow these products that are established in the name of this legislation to compete freely in the default fund market. We've got to have this additional red-tape process through Fair Work Australia.' It is a highly discredited process, it is non-transparent and non-competitive, and it protects the vested interest of the union movement, which is the only thing that remains to unite this rabble of a Labor Party. Standing up for the vested commercial interests of the union movement is the last thing that is uniting the Australian Labor Party.

Senator Boyce interjecting—

Senator CORMANN: Senator Boyce has just reminded me that it represents just 17 per cent of Australian workers. We say, 'If this MySuper legislation passes through the parliament, trust your own bill, trust your own legislation.' Any product which qualifies for registration of a MySuper product should be allowed to compete freely in the default fund market without any further discredited and conflicted involvement by Fair Work Australia. You have union reps, who are super fund trustees, going to Fair Work Australia and arguing in favour of the listing of their fund as the default fund in a particular modern award. It is completely conflicted and completely inappropriate, and it is something that the coalition would fix in government. We believe that any MySuper product should be able to compete freely in the default fund market.

There are four bills here, which would normally attract a 20-minute contribution by each senator on behalf of the coalition, which we now have to ram into this very truncated debate. In the House of Representatives they had months and months to deal with this and we get less than one hour. One of the bills is the Superannuation (Sustaining the Superannuation Contribution Concession) Imposition Bill, and we also have the Tax and Superannuation Laws Amendment (Increased Concessional Contributions Cap and Other Measures) Bill, which is effectively a breach of promise in relation to what the government said they would do before the last election.

There is, of course, a better way. If the coalition are elected to government at the next election we will not make any unexpected detrimental changes to superannuation. With the coalition there are no surprises and no excuses. We will be open, transparent and upfront before the election instead of promising no change before the election and then hitting people with additional taxes after the election. We will improve corporate governance arrangements for super, ensuring that there is appropriate provision of independent directors on super boards by making sure there is proper management of conflicts of interest, in particular in relation to Labor Party transactions. We will properly address the issue of excess contributions to make sure that Australians saving for their retirement are not unfairly penalised for genuine unintended errors. We will pursue opportunities to cut unnecessary red tape in super, which the government has added in abundance. We will remove regulatory barriers currently restricting product innovation and improved options to manage financial risks in the retirement phase. We will revisit concession contribution caps and super co-contribution benefits for lower
income earners once the budget is back in a strong enough position. And, of course, we will conduct a financial systems inquiry, which will include a focus on superannuation. We will not rescind the increase in compulsory super from nine to five per cent, though we will delay the full phase-in by two years so we will get there by 2021 instead of 2019, which will help us fund the income tax cuts and pension increases without a carbon tax.

Senator BOYCE (Queensland) (22:07): I also stand to speak on the package of superannuation bills. I imagine that most of my colleagues will know the abbreviation WTF. It is certainly one that I have had sent to me in the last couple of hours by people in the superannuation industry who are gobsmacked and shocked that the government thinks that the fourth tranche of superannuation bills should be dealt with in 65 minutes—four bills that would in other circumstances have had numerous hours of debate each are now being rammed together into a miserable 65 minutes. So, here we go: the Gillard Labor/Greens government is again treating this parliament with disrespect. As Senator Cormann pointed out, there were months of debate and discussions about this legislation in the House of Representatives, but could the government bring it here in a timely fashion? No.

The Senate, which is the House of review, is one of this parliament’s great strengths, and here we have debate being guillotined again—four superannuation bills, all being done in a miserable 65 minutes; that is, about 13 minutes per bill. When the coalition was in control of the Senate between 2004 and 2007, there were 32 bills guillotined. In the three years since the Gillard Labor government has had the majority in the Senate, more than 215 bills have been guillotined through the Senate; that is, seven times as many. It is beyond bemusement that the Greens, who were so proud under Senator Bob Brown of their opposition to gagging debate, have turned into the lapdogs that they are. We as lawmakers are not being allowed sufficient time to properly scrutinise and debate these bills, and that just is not good enough. I understand the response of members of the superannuation industry. We are talking about legislation that will affect the future of every Australian employee. We have seen so many examples of poor drafting leading to unintended consequences, and this tranche is yet another of those areas.

The first of the bills listed, the Superannuation Legislation Amendment (Service Providers and Other Governance Measures) Bill, seeks to introduce the fourth tranche of MySuper legislation. It also makes a few of the government's changes flowing from the Cooper review into superannuation. The government has been forced to bring a raft of changes to its own legislation after it was introduced. Just think how much better this legislation could be if it were properly debated. Those changes followed on from the Joint Committee on Corporations and Financial Services, of which I am deputy chair, which held an inquiry and found many serious issues in this bill. This shabby drafting is not good enough because it increases market risk and has the potential to cause Australians to lose confidence in their superannuation. Australians have lost confidence in any promise that this government might make in relation to super, but there are concerns that they could lose confidence in the entire superannuation system with the chopping and changing, the promising and unpromising, that has gone on with this government. The coalition will be moving amendments to this bill, as Senator Cormann pointed out.

The Superannuation Laws Amendment (Capital Gains Tax Relief and Other Efficiency Measures) Bill amends the
Income Tax Assessment Act 1997 to provide income tax relief to superannuation funds where there is a mandatory transfer of default members' account balances to a MySuper product in another superannuation fund. As Senator Cormann said, all this red tape is caused by the government's inability to trust its own legislation. We support the change that this has brought about to ensure that members of funds which participate in mergers are not unnecessarily penalised through capital gains tax considerations.

The purpose of the Tax and Superannuation Laws Amendment (Increased Concessional Contributions Cap and Other Measures) Bill 2013 and the Superannuation (Sustaining the Superannuation Contribution Concession) Imposition Act 2013 is to amend various tax and super laws to bring in some of the budget related announcements. Of course, these are some of the changes that have been brought on the government by the way it went about drafting this legislation and introducing it in the first place. Once again, we have process issues.

This government, having promised not to do anything to super, has steadily reduced the concessional contribution cap for those aged over 50 since 2007-08—all part of Mr Swan's class warfare, no doubt, because of the extraordinarily rich people out there who were going to retire in the lap of luxury, apparently! One of the things that I am surprised Ms Gillard and others did not point out to Mr Swan is that this reduction in the concessional contribution cap particularly disadvantages older women. Once women's children have grown up, once they have perhaps achieved some seniority after returning to the workforce, in many cases they have the first chance in their lives to build a real superannuation pot for their retirement. It is not while children are growing up. There is plenty of research showing that, in fact, working women are far more likely to put money into their children's needs and their spouse's needs, or their partner's needs, before putting it into their own superannuation by way of concessional contributions. So, congratulations to this government for making it even harder for older women to build their superannuation to the level where it could be useful to them! I would just point out that male workers retire with 32 per cent more in their superannuation accounts than do women, even though women, because they live longer, spend 45 per cent more time in retirement than do men. Yet this government was too short-sighted to see the damage that they were doing with their attack on concessional caps. With this being the last parliamentary sitting week before the election, at least the government cannot introduce any further changes to superannuation. The raft of ill-thought-through changes have seriously undermined confidence in the superannuation system.

Voluntary contributions to superannuation were as high as four per cent of Australia's total salary base prior to the GFC. Since then contributions have more than halved. Those opposite might suggest that this is because of the GFC. I would suggest that it is because of Australians' lack of confidence in their economy and their government. Whilst the GFC was a significant contributor to that slump, the industry says—and I think it is just common sense—that the continuing uncertainty around the changes to superannuation has accelerated that slump, and people continue to lose confidence in super. The leader of the coalition, Mr Abbott, has made a firm commitment on behalf of the coalition that, should we win government in September, there will be no more unexpected detrimental changes to our super system. That is a commitment that I am sure all Australians will approve of.
I would like also to speak briefly about recommendation 2.7 of the Cooper review, which Senator Cormann mentioned, which suggests putting an end to the equal representation on superannuation boards model. Recommendation 2.7 says:

For those boards that have equal representation because their company constitutions or other binding arrangements so require, the SIS Act should be amended so that no less than one-third of the total number of member representative trustee-directors must be non-associated and no less than one-third of employer representative trustee-directors must be non-associated.

For a government that is so keen to ensure that corporate governance in the corporate world functions well, it is beyond belief that it would not accept this recommendation as a sensible way of improving transparency and accountability and of improving confidence in the superannuation system. There is no reason whatsoever not to accept this except that, as Senator Cormann pointed out, the union masters have spoken to the government about how they want this to look and about how many cushy jobs as trustees on boards their union mates want. It certainly does not allow for independent directors to be included.

It is not possible for a union member to be on the board of a superannuation scheme where the member’s funds go without there appearing to be the potential for a conflict of interest. I am sure many of those directors exercise their duties as trustees in the most honest and the fairest way possible, but there must always be the likelihood that people will see this as having the potential to lead to a serious conflict of interest. We cannot go into the 21st century with the huge amount of money—the trillions of dollars—that we currently have in our superannuation system without wanting it to be the most efficient and competitive superannuation system with the highest standards of corporate governance. That is the system that will deliver value for superannuation fund members. Continuing to improve corporate governance in the industry will also help to increase Australians' level of confidence in the system and their willingness to make additional contributions. Why would any superannuant currently make extra contributions, given that they have no idea what the government is going to suggest next? We will certainly be pushing yet again for that change to happen.

One change, at least, that the government has in effect accepted is our amendment to allow trustees of MySuper accounts to cap asset based administration fees. We had been intending to move amendments on this ridiculous situation where there was going to be no limit on percentage based fees on super accounts, no matter how large a super account balance was. We are pleased to see that the government has finally decided that it will see the sense of this and take it on board. There was certainly a serious, adverse reaction among industry stakeholders when the government first came up with this scheme. Stakeholders could not believe it. It is good that the government has finally allowed for greater flexibility in fees. If the government had persisted with what it was intending, a $500,000 superannuation account could have been charged an administration fee 100 times greater than that of a $5,000 account, if the fee had been based simply on percentages. Clearly, it cannot cost 100 times more to run a $500,000 account than a $5,000 account, so why would the government insist on doing that when it claimed that it wanted an efficient system, a system that delivered value for money to Australia’s superannuants? Without caps Australians will have more in their super and they will end up with more money. So it would have been inherently unfair, inequitable and, as I
said earlier, inefficient to have maintained the situation that they have.

The coalition continues to be concerned that it is 2½ years since the Cooper review was handed down, and yet only some of the Cooper review has been implemented. The government has haphazardly implemented many of the findings of that review. We have tried to improve it along the way, and I think that we have made some very sensible improvements. But it is just beyond belief that this legislation is being pushed through in the way that it currently is.

It is also interesting that, to date, this Labor government has hit Australians with nearly $9 billion in increased taxes and charges on superannuation over the last five years. Nine billion dollars has come out of superannuation accounts, which would not have come out of superannuation accounts if this government had kept its promise to maintain super—not to fiddle with or change super.

We have begun consulting with a broad cross-section of senior superannuation industry stakeholders and experts, and we certainly will not be making any changes that could harm the superannuation system in Australia. We will certainly not be doing anything that will cost Australian superannuants a cent. We plan to increase compulsory superannuation contribution from nine per cent to 12 per cent. We will be improving corporate governance arrangements. The first improvement will be around independent trustees.

We will properly address the issue of excess contributions to make sure that Australians who are saving for their retirement are not unfairly penalised for genuine unintended errors. What a farce that little effort has been from this government!

A coalition government will also pursue opportunities to cut unnecessary red tape. I think if we looked at the first, second, third and fourth tranches of the superannuation legislation we would see that at least a quarter of it could quite easily be removed so that people do not have this ridiculous situation of being second guessed by unions or by the government in every aspect of their superannuation.

A potential coalition government will also remove regulatory barriers currently restricting product innovation and improved options to manage financial risks in the retirement phase. We will revisit the concessional contribution caps and super co-contributions for lower income earners once the budget is back in a strong enough position.

As I said, we have already begun talking to the industry, and we will conduct a financial systems inquiry, which will include the superannuation industry, so that it becomes part of the financial system, not something tacked on and changed at the whim of the union movement or when the Treasurer needs desperately to scramble around, as he did late last year, to find a surplus. It will be done in a coherent way.

I would expect that it will include looking at the terrible impacts that this government's changes to the concessional caps have had on women. Women have 35 per cent lower median balances in superannuation than men, and nothing has been done to assist them to improve this situation. There have been all manner of suggestions made—even by the Australian Institute of Superannuation Trustees—but all of them have been ignored by this government because the government's spending in other areas has meant that they could not help older, retiring women.

Senator BUSHBY (Tasmania—Deputy Opposition Whip in the Senate) (22:27): I also rise to make a contribution on this suite of bills, which include the Superannuation
Legislation Amendment (Service Providers and Other Governance Measures) Bill 2013, which is the fourth tranche of legislation implementing the MySuper proposals that followed the super system review, otherwise known as the Cooper review; the Tax and Superannuation Laws Amendment (Increased Concessional Contributions Cap and Other Measures) Bill 2013; and the Superannuation (Sustaining the Superannuation Contribution Concession) Imposition Bill 2013, the purpose of which is to amend various taxation and superannuation laws to implement a number of budget related announcements.

Three separate measures to be implemented by the bills are set out in four schedules to the Tax and Superannuation Laws Amendment (Increased Concessional Contributions Cap and Other Measures) Bill 2013. These three measures are a temporary increase in the superannuation concessional contributions cap for those aged 50 or more; amendments relating to the payment of the low income superannuation contribution; and an increase in tax paid on concessional contributions for certain taxpayers earning more than $300,000 per year.

The Superannuation (Sustaining the Superannuation Contribution Concession) Imposition Bill 2013 fulfils the requirements of section 55 of the Constitution that a separate bill is required to impose a tax. This highlights the fact that this suite of bills contains yet another new or increased tax by this government.

The other bill which we are debating tonight is the Superannuation Laws Amendment (MySuper Capital Gains Tax Relief and Other Measures) Bill 2013. The purpose of this bill is to amend the Income Tax Assessment Act 1997 so that certain tax liabilities can be transferred between various superannuation and life insurance entities.

The bill also amends the Defence Force Retirement and Death Benefits Act 1973 to allow for the payment of an additional superannuation contributions tax for some military personnel who are covered by the superannuation scheme established by the DFRDB Act.

Three years ago today the faceless men of the Labor Party installed Prime Minister Gillard and Australians woke up to a new leader of their country, one that they did not vote for. What was the reason for this? Labor had 'lost its way', Prime Minister Gillard then said—it was time to 'let the sun shine in' and allow transparency to reign. Yet here I am this evening, standing in this chamber to debate four government bills proposing significant changes to superannuation legislation in Australia. How much time have we been allowed to 'let the sun shine in'? A grand total of one hour and five minutes. One hour and five minutes to debate four bills, in my opinion—and, I am sure, the opinion of many Australians—does not constitute sunlight and transparency. It is utterly ridiculous and only serves to demonstrate the true arrogance of the Labor-Green alliance that rules this chamber.

The figures support my comments. In the three years of Liberal-National control of the Senate between 2004 and 2007, only 32 bills were guillotined—and, even then, only after much more reasonable opportunity for debate than what we are experiencing here this week and have experienced throughout the period of Labor-Greens control of the Senate. But it is worse than that. In the three years since the Greens-Labor alliance obtained their majority in the Senate, over 215 bills will have been guillotined—215 bills passed without due consideration and debate, with no opportunity for the chamber to properly analyse and consider the consequences of those bills, to test them and to find unintended consequences. For parties
who claim to believe in openness and transparency in government, this is a complete abuse of power, and smells of desperation.

The fact is that the government, with the complicity of the Greens, are seeking to push as many of their poorly drafted pieces of legislation through this chamber, without any respect for parliamentary process or good governance, as they can. One wonders what price Labor have paid for the deal that they inevitably had to do with the Greens for their support in this regard. Interestingly, the facts on the use of the guillotine are not something that we ever hear when the Greens are scare-campaigning on the possibility of a coalition controlled Senate, despite the fact that they insisted that the Senate should be the house of review, providing proper scrutiny. With 65 minutes to debate these four bills in relation to superannuation, the Greens are just as bad as Labor, in not living up to their promises and not living up to the expectations of the Australian people.

The two concession cap bills that we are looking at today serve to demonstrate what we already know: Labor is clearly no friend of low-income earners saving for their retirement through superannuation. It is also clear that Labor's promises in relation to superannuation cannot be trusted. Superannuation is a key element of our retirement framework, and superannuation is extremely important to Australians. It is their nest egg and, to a large extent, it will determine the quality of the lifestyle they can enjoy in their retirement years. Many Australians are forced to sacrifice throughout their working life to make co-contributions to their superannuation to ensure their savings will adequately support them through their later years. But, under this Labor-Greens alliance, Australians have not been offered any certainties in relation to their superannuation. Policies have been chopped and changed. Ministers have come and gone and been reshuffled around Labor's revolving-door cabinet. Industry stakeholders have been left in the cold, with very little stakeholder liaison undertaken by this government when it comes to change in any sector, but particularly in financial services and superannuation.

The chronology of events tells the tale. In 2007, Labor promised there would be no change to superannuation—a promise which has been pathologically broken, over and over again. In the 2009-10 budget they reduced the concessional contributions cap to $25,000 per annum, indexed, with effect from the 2009-10 financial year from $50,000. They reduced to $50,000 per annum the transitional concessional contributions cap, applicable to individuals aged 50 and over, for the 2009-10, 2010-11 and 2011-12 financial years, from $100,000. On 1 July 2009 they reduced the transitional concessional contributions cap from $50,000 per annum to $25,000 per annum for 2009-10 and later years, but they promised that amount would be indexed to changes in AWOTE. On 2 May 2010, and in budget 2010-11, the concessional contributions cap for those over age 50 with less than $500,000 in total superannuation benefits was permanently raised from $25,000 to $50,000. This must all sound very confusing to anybody listening—and it is. On 29 November 2011, the indexation of concessional contributions caps were paused for one year—that being 2013-14. But, in the 2012-13 budget, we saw the deferral of the 2010-11 budget measure to increase the concessional contributions cap for individuals over 50 with a superannuation balance of less than $500,000 from 1 July 2012 to 1 July 2014.

Be that as it may—despite all of these changes and the broken promises—the coalition will not oppose these bills tonight,
even though they contain a tax increase on superannuation. Unfortunately, Australia is not in a position to oppose these changes, due to the Labor created and fostered budget emergency—the unfortunate legacy of the Rudd and Gillard governments and the past two parliaments that they have overseen. However, all that Labor's cavalier attitude towards superannuation has done is to give Australians a clear choice at the next election. On the one hand, Australians can choose the coalition, led by Tony Abbott and offering stability and clarity in relation to superannuation policy. On the other hand, Australians can choose the high-taxing and erratic Labor Party that has failed to provide Australians with the certainty they deserve in relation to superannuation arrangements.

Mr Abbott has made a firm commitment to Australians that, if we are fortunate enough to obtain government after 14 September, we will restore certainty and stability to Australia's superannuation system, allowing Australians to plan and save for their retirement with both security and confidence. In almost no area of government is this as important as in superannuation, as people today will be making decisions that impact not over the next months or even over the next few years but over decades. Increasingly, I am hearing from Australians who have been fearing for their future since the current government came to power and set about tearing up certainty in our superannuation system. Over the past five years, Labor has constantly and continuously targeted people saving for their retirement with significant tax increases and changes. They have targeted Australians doing the right thing—Australians saving to achieve a self-funded retirement, so as not to burden the public purse in future years—with a whopping $9 billion in increased taxes on super savings so far and with a clear threat of more to come.

Why are they attacking the superannuation system so savagely? It is because Labor simply cannot manage their own budget. They have had to penny-pinch and revenue-raise at every turn to compensate for their reckless waste and mismanagement over the last two terms of their government: the tragic pink batts scheme, the cash-for-clunkers scheme, the border-control budget blow-out, the Julia Gillard memorial school halls, the canteens you cannot even fit a pie oven in and the mining tax that has failed to raise them any revenue. That is right—they have wasted their opportunity.

They have not delivered good policy outcomes for Australians. They have wasted Australian taxpayers' money. And it is all at a time of record terms of trade, when they should have been delivering surpluses and saving for the nation's future, not dipping into the savings of individuals who have made those sorts of prudent decisions for their own benefit. I find it incredible that they now have the audacity to try to balance their books with the superannuation of the Australian people, money that Australians have worked hard for and money that rightly belongs to them.

The fundamental difference between the coalition and Labor is that the coalition believes governments, like families and businesses, have to live within their means. Our funded commitments stand in contrast to Labor's record of broken promises to Australian families. These bills contain a tax increase on superannuation that the coalition would not wish to see in place, but Labor leaves us with no alternative but to support that tonight. We understand the importance of a self-funded retirement and we understand how everyday Australians sacrifice now so that they may look after themselves in the future, without reliance on the taxpayers of Australia.
Unfortunately, after years of waste and mismanagement, we have no choice. These bills make technical changes to the low-income super contribution, a payment this government cannot afford because they have linked it to the failed mining tax that has not raised any meaningful revenue. These bills are largely just another attack on our superannuation system from a desperate and flailing government. But the coalition has a better way. Our focus in government would be on encouraging increased voluntary savings to complement compulsory superannuation, if and when the budget can afford it. We will work with— not against—the superannuation industry and all associated stakeholders to ensure our superannuation is the most efficient, transparent and competitive superannuation system. We will make sure our system has appropriately high standards of corporate governance to ensure all Australians get the best possible value and maximise their superannuation savings. We will target our efforts to improve transparency and efficiency.

Unlike the Labor Party, the coalition recognises the importance of integrity of the system. We will not just pay lip-service to these traits. We will work to improve our system by improving governance and implementing a series of corporate governance reforms recommended by the Cooper review but not progressed by Labor. In particular, we have said that we would ensure there is a more appropriate provision for independent directors on superannuation fund boards. This is primarily by ensuring that directors who want to sit on multiple superannuation boards must demonstrate to APRA that they do not have any conflicts of interest. The disclosure of conflicts of interest should be mandatory and directors of superannuation funds must disclose their remuneration in line with the provisions that apply for publicly listed companies and other APRA regulated sectors.

This industry is worth trillions of dollars. It is vitally important that we get it right. A coalition government would improve transparency in the information that is available to Australians when selecting their super fund so that they may easily compare the market options. Additionally, we would seek to address the issue of excess contributions to make sure that Australians are not unfairly penalised for genuine, unintended errors when contributing to their super, of which part is dealt with tonight.

We will also cut red tape in this area and streamline employers’ superannuation reporting by implementing a superannuation clearing house through the Australian Taxation Office. We will review the regulatory barriers currently restricting the availability of relevant and appropriate income-stream products for Australian retirees. And we will also review the current mandated minimum-payment levels for account based pensions to assess the adequacy and appropriateness in light of current financial market conditions.

This is a very comprehensive set of initiatives from an opposition that has seen how damaging and destructive the last two terms of government have been on this vital sector of our economy. Most important is the promise from Tony Abbott earlier this year that a future coalition government will not make any unexpected detrimental changes to people’s superannuation arrangements—because, as in so many other areas of government, Labor has failed to provide Australians with certainty in investing in superannuation.

On the third anniversary of the installation of this Prime Minister—who was installed in our country's highest office by the faceless men of the Labor Party amid a flurry of
promises about sunlight and transparency—this chamber finds itself subject to the guillotine, yet again. Just 16.25 minutes is available to each in this suite of four superannuation bills that represent more broken promises from this Labor government. Nothing has changed. It is still the faceless men in charge of the Labor Party and the Gillard government has failed to restore transparency and accountability to the parliament of Australia. The coalition applauds and supports Australians saving for a self-funded retirement and on 14 September we offer those Australians a real choice.

Senator WILLIAMS (New South Wales—Nationals Whip in the Senate) (22:42): I would like to contribute to the debate on this superannuation bill, the Superannuation Legislation Amendment (Service Providers and Other Governance Measures) Bill 2013, and related bills. I simply do not trust the government when it comes to superannuation. I will give you an example. When I came to this place in 2008, at the age of 53, I had a total of $1,650 worth of superannuation—not much for someone of that age, but that is from farming and small business. I salary-sacrificed a lot to build that superannuation up. I contributed a couple of years ago up to the maximum of $50,000, with the employer contribution and my salary sacrificing.

Now we have a situation where the government has taken those total contributions from $100,000 down to $50,000 and then down to $25,000. So this year, of the $6,000 or $7,000 of super I will be paid, I will pay 46 cents in the dollar in tax. At the age of 58 I am doing my best to get a nest egg together for retirement. I find that I have to pay 46 cents in the dollar of $6,000 or $7,000 when my total super is now at about $148,000. Why is that? I thought super was to make people self-sufficient in retirement. This is the government's grab on superannuation and no doubt they are looking very closely at the $1.5 trillion that has been put away in super funds.

Since coming to government, Labor has hit Australia's savings with nearly $9 billion in increased taxes and charges on superannuation. Three point three billion dollars of this has come from low-income earners through various reductions to the government's super co-contribution scheme, established under the previous, coalition government. This Labor government has reduced the co-contribution maximum per year from $1,500 to just $500. It also lowered the threshold at which the co-contributions phase out. When this first came in, my son was an apprentice builder and my eldest son, an accountant, said to him, 'Tom, you should try and put some money aside because when you do the government will make a good co-contribution of $1,500.' That my son did, but now he sees that eroded away to just $500. He is still what I would class as a low-income earner; he has been a qualified builder for a couple of years.

A coalition government will look to provide certainty and stability in superannuation by not making unexpected detrimental changes to the superannuation system in the next term of parliament if we are elected. This will allow people to save for their retirement and plan with confidence. This is most important. We all know the statistics about our ageing population and how much we need people to be self-sufficient in retirement, not reliant on taxpayers for pensions, health benefits, aged-care facilities et cetera. We know the drain on the public purse is enormous and this will only get greater as a larger number of Australians tend towards those older years, if I can put it that way.
The coalition plans to increase the compulsory superannuation contribution from nine per cent to 12 per cent, with a pause for an extra two years at 9.25 per cent; improve corporate governance arrangements for superannuation; properly address the issues of excess contributions to make sure Australians saving for their retirement are not unfairly penalised for genuine unintended errors; pursue opportunities to cut unnecessary red tape in superannuation; remove regulatory barriers currently restricting product innovation and improved options to manage financial risks in a retirement phase; and revisit concessional contribution caps in super co-contributions for lower income earners once the budget is back in a strong enough position. Finally, a coalition government will conduct a financial systems inquiry which will include the superannuation industry. The coalition will continue to consult with the broad cross-section of stakeholders in the super industry in the lead-up to this year's election. I would also like to add that allowing trustees to cap asset based administration fees is most important.

The government anticipates that this bill is the fourth and last tranche of legislation implementing the MySuper proposals from the Cooper review. The first bill, tranche 1, established core provisions for MySuper, which included rules around the charging of fees in relation to member accounts. This included, in effect, a ban on caps for account administration fees. As paragraph 6.11 of the tranche 1 bill explanatory memorandum discussed:

For any fee that applies to all members of the MySuper product, such as an administration fee or an investment fee, each member is to be charged the fee under the same charging rule. For example, if one member is charged a percentage of their account balance in relation to the MySuper product as an administration fee, then each member of the MySuper product should be charged the same percentage of their account balance in relation to the MySuper product at the same point in time ...

This caused an adverse reaction among industry stakeholders at the time. These stakeholders, as well as the coalition, were anticipating that the government's current and final MySuper bill, tranche 4, would include amendments to remove this unnecessary and counterproductive requirement. However, such amendments were not forthcoming.

As I said, there is roughly $1.5 trillion of superannuation in this nation. There is no doubt that this current government tried to do its best to get what it could out of the tin of super money in an effort to bring about its promised budget surplus—a budget surplus that we were told on literally hundreds of occasions would be delivered in this financial year, only to find that the budget would be some $20 billion plus in the red. After the election on 14 September, we will get the true figures on where the budget is at this time. Notice how the election date will take place before the fiscal outlook for this financial year is reviewed for the public of Australia.

The ACTING DEPUTY PRESIDENT (Senator Stephens): Order! The time allocated for consideration of these bills has expired and the question is that these bills be now read a second time.

Question agreed to.

Bills read a second time.

The PRESIDENT: In respect of the Superannuation Legislation Amendment (Service Providers and Other Governance Measures) Bill 2013, the question is that the amendments numbered (1) to (7) on sheet 7415 circulated by the opposition be agreed to.

The Senate divided. [22:55]
(The President—Senator Hogg)

Ayes.................... 32
Noes..................... 36
Majority.............. 4

AYES

Abetz, E
Bernardi, C
Boyce, SK
Cash, MC
Cormann, M
Eggleston, A
Fawcett, DJ
Fierravanti-Wells, C
Fifield, MP
Kroger, H (teller)
Madigan, JJ
McKenzie, B
Parry, S
Randalson, M
Ryan, SM
Sinodinos, A
Williams, JR

Back, CJ
Birmingham, SJ
Bushby, DC
Colbeck, R
Edwards, S
Fawcett, DJ
Joyce, B
Macdonald, ID
Mason, B
Nash, F
Payne, MA
Ruston, A
Scullion, NG
Smith, D
Xenophon, N

NOES

Bilyk, CL
Brown, CL
Carr, KJ
Crossin, P
Farrell, D
Feeney, D
Gallacher, AM
Hogg, JJ
Ludlam, S
Marshall, GM
McLucas, J
Moore, CM
Pratt, LC
Siewert, R
Stephens, U
Thorp, LE
Waters, LJ
Wong, P

Bishop, TM
Cameron, DN
Collins, JMA
Di Natale, R
Faulkner, J
Camm, ML
Hanson-Young, SC
Lines, S
Ludwig, JW
McEwen, A (teller)
Milne, C
Polley, H
Rhiannon, L
Singh, LM
Sterle, G
Urquhart, AE
Whish-Wilson, PS
Wright, PL

Question negatived.

Third Reading

The PRESIDENT (22:57): The question now is that the remaining stages of these bills be agreed to and these bills be now passed.

Question agreed to.

Bills read a third time.

ADJOURNMENT

The PRESIDENT (22:58): Order! It being almost 11 pm, I propose the question:

That the Senate do now adjourn.

Regional Australia

Senator GALLACHER (South Australia) (22:58): I rise to make a contribution in this last opportunity of the 43rd Parliament to talk about regional Australia, and in particular what the Labor government is doing in not leaving regional Australia behind. As I have stated here often, I make it a habit to travel my duty electorate of Grey as often as I am able. Anyone who has listened to me speak here knows that not only is it one of my favourite subjects but I consider it to be a very important topic too.

This government knows that it is of the utmost importance that we continue building on what is being done in and for regional Australia. I want to take this opportunity to reiterate some of the really important figures to get anyone who thinks regional Australia has been left behind by this federal government to think again. I will focus on Grey, one of the largest regional electorates in this country. Significant investments that have and that will make a difference to communities have been made in the electorate of Grey, investments that will continue to serve and benefit the locals in that electorate for many years to come. We have significant investment towards skill improvements in Grey. As of 30 April this year, around $46.25 million has been approved for 11 trade training centre projects benefitting 52 schools in total, of which 47 are in the electorate of Grey. These trade training centres are bringing communities closer and providing more opportunities and—most importantly—career prospects for young people in regional Australia. This is providing the young people of Grey the...
opportunity to learn a skill with modern and relevant tools and giving them the work experience necessary to help build stronger regional economies.

In regional areas, young people are among our greatest resources. It is essential to provide the funding for school based training to give opportunities to young people who want to stay in their rural communities. We have seen great evidence of that right throughout the electorate of Grey. Their skills will be of benefit to the economy in regional areas and therefore will be of great benefit to the wider Australian community.

I have talked before of the various trade training centre openings that I have been fortunate enough to attend and of the locals who talk to me and tell me how excited they are by the opportunities that these investments will bring. You will not read about this in the newspapers—you certainly will not hear about it from those on the other side. But you do hear this stuff from locals when you spend time in regional communities.

What is abundantly clear in all regional areas of Australia—and particularly in the regional electorate of Grey—is they get great use out of their facilities. Some of the schools that I have visited have got exceptional longevity out of their infrastructure. These new investments will also be around for many, many years to come. I cannot tell you enough about the gratitude of regional Australia that these investments have been made, allowing their kids to learn skills, connect with the regional economy, connect with regional employers and—when they leave school—go straight into some useful full-time and exciting work.

We have also seen close to $167 million approved for around 340 BER projects, including the building or upgrading of 63 classrooms and 31 libraries. These are community libraries that are open on a Saturday for the whole community to use—for the grey nomads to come in and use the internet. They are brilliant facilities. Thirty-six multipurpose halls and 12 science and/or language centres have also been built or upgraded. We have built, upgraded and modernised school buildings to provide current and future students with modern and reliable infrastructure so that they are not left behind. This government sees the importance of investing in people who will grow up to lead this country. We have also seen around 5,400 computers installed under the Digital Education Revolution through the national secondary schools computer fund. Once again, this is an investment for the future—the future of the students and the future of Australia.

Among the other things that we have seen in Grey, under the Regional and Local Community Infrastructure program around $13.76 million has been allocated to 176 projects in Grey. There has been around $27.3 million provided to Grey via the Regional Development Australia fund. Importantly, it does not end there. Around 1,160 local families in Grey are benefitting from Australia's first parental leave scheme. More than 9,950 families, or around 17,550 schoolkids, are being helped with their back-to-school costs every year as a result of Labor's schoolkids bonus. The schoolkids bonus sees eligible families get $410 for each child in primary school and $820 for each child in high school.

Family tax benefit A benefits about 5,300 teenagers and children in Grey who are turning 16 over the next five years. Their families will receive up to $4,200 extra in family payments if their child remains at school. Around 2,450 local families are now benefitting from an increase in the childcare rebate. This rebate has increased from 30 per cent to 50 per cent. That has delivered up to
$7,500 per child per year and is going a long way in helping parents to meet the cost of full-time child care.

Importantly, close to 20,500 local pensioners are benefitting from Labor’s historic pension reforms, including the biggest increase to the pension in 100 years. Single pensioners on the maximum rate are receiving $207 extra a fortnight. Couples on the maximum rate are receiving, combined, an extra $236 a fortnight. The retirement savings of around 61,700 local workers will receive a boost from 1 July, with Labor increasing superannuation from nine per cent to 9.25 per cent. That will eventually rise to 12 per cent. Students will also benefit from 1 July, with more than 2,200 local students and young apprentices set to receive a second advance payment worth up to $90.

There is so much potential in regional Australia. This has been recognised by the investment that this Labor government has made. It is important that we place on the record the good work that we do in these regional electorates. It is extremely important that we repeat at every opportunity what we have done in these electorates to combat the negativity of those opposite. I have lost count of the number of times that one particular senator opposite has said that this Labor government does not care about regional Australia. If you took that at face value and did not do the analysis or study or have a look at it, people could be fooled into thinking that is a correct statement.

In the brief time I have had tonight I think I have detailed clearly and concisely the historic investments that the Labor government has made in one of the largest regional seats in Australia. Many people in those towns and communities, which I have visited and in which I have been fortunate enough to have officiated at functions, have expressed their gratitude to the Gillard federal government with respect to the enormous commitments through the BER, the trades training centres and through Minister Simon Crean’s efforts in the Regional Development Australia Fund. These things have brought home investments in great communities that are going to deliver good results and will repay tenfold the investment in infrastructure with the development of young people in regional Australia working professionally, surviving, growing those economies and making their communities proud.

Indigenous Business Australia

Indigenous Land Corporation

Senator SCULLION (Northern Territory—Deputy Leader of The Nationals) (23:08): I rise today to make a contribution on Indigenous Business Australia and the Indigenous Land Corporation. Indigenous organisations are required to cope, conventionally, with intense levels of accountability and scrutiny by governments, often beyond what we would expect from other mainstream organisations. However, they and the general public do object when government does not apply the same standards of accountability and governance to its own operations and key agencies.

Indigenous Australians have been described as being land rich and dirt poor. A significant role of any Australian government is to provide economic development on Indigenous lands. The Gillard government’s meddling in the operations of two of the key players, Indigenous Business Australia and the Indigenous Land Corporation, is turning these once respected and successful organisations into what many would consider dysfunctional fiefdoms.

The government takeover of these two organisations was started, one imagines, in Minister Jenny Macklin’s office with
Indigenous Business Australia. As board positions became vacant, Minister Macklin appointed Dawn Casey as chair and other like minded people. The then highly respected, long-standing chief executive officer was forced out. The acting CEO was Bruce Gemmell. Remember that name, as he will be making several appearances. I think he is an excellent public servant. I am not trying to diminish his character in any way. He was simply a tool of the government. Eventually the new permanent CEO took over. Staff processes and changes followed and that was when many people would indicate that the errors started to compound.

Indigenous Business Australia has lurched from one scandal to another. The IBA board agreed to invest $18 million in the Tjapukai Aboriginal Cultural Park in Cairns, which IBA admitted at Senate estimates is worth only $1.4 million. Fifteen Canberra IBA staff went to the Gold Coast for a planning workshop. They enjoyed a day at Movie World on the Gold Coast. I am not sure what sort of planning happened there. They enjoyed an $83 a plate dinner at Dracula's Restaurant. All of this was funded by the taxpayer and cost $28,000. These things happen. But when all bar a couple of the public service staff who attended that actually live in Canberra, one has to wonder about the efficacy of those sorts of processes.

Another planning day was at Wildman Wilderness Lodge in the Northern Territory. What better place to have a planning day? I understand that a number of the staff were off doing some planning on quad bikes. I am not sure exactly what that entailed. Inevitably it all came unstuck and the deputy CEO had a significant accident and, sadly, she was seriously injured.

Where is the professionalism in this sort of organisation? The IBA later bailed out the Darwin Larrakia Development Corporation. That was a good decision as it is a great corporation. The IBA said they were going to buy Larrakia Development Corporation's share in Darwin's Medina Grand Waterfront Hotel and Vibe Hotel. Their very proper motivation was to ensure that they were able to employ Aboriginal people in the hospitality industry. Sadly, IBA revealed at the last Senate estimates that after three years it had zero Indigenous employees and no Indigenous partner.

Macklin and IBA joined forces with ABA to purchase the IGA stores in Alice Springs that sell alcohol. Many people in Alice Springs have commented that it makes Macklin's supposedly tough stance on alcohol a complete joke.

In a letter to the board that was tabled at estimates, former CEO Ron Moroney provided seven pages of alleged failings by the board. Minister Macklin did implement a review of some of these issues, but it was a whitewash. I wrote to her to request a fair dinkum inquiry headed by a former judge to get to the bottom of this mess. I table the letter.

The same Macklin approach is underway with the ILC. Ms Casey has been appointed chair of the ILC, as well as IBA, along with more new board members. A highly regarded CEO, in the words of the chair, was sacked with the agreement of the minister, according to Ms Casey. The ever-present Mr Gemmell reappears as acting CEO of the ILC. The plan for the ILC was almost derailed because of the inconvenience of the Aboriginal and Torres Strait Islander Act, which requires quite specifically that acting CEO appointments be for no more than six months. Obviously, this is to ensure that we have some continuity and we do not have temporary appointments for a long period of time. To get around this—that is right: to get around this—Mr Gemmell was instructed to
resign a few weeks before the end of his six-month term and then he was reappointed a few weeks later.

Senator Kroger interjecting—

Senator SCULLION: It did not go that well, actually. He forgot to hand his phone back in, kept his office keys, stayed on the mailing list and continued his role by travelling to Adelaide, at ILC expense, to chair an ILC management meeting. That is hardly a resignation. He went on to explain, 'I had an expectation that a further appointment would come through.' We found at the most recent estimates that Julia Gillard's right-hand man, Andrew Leigh— with the full authority of the Prime Minister—approved both the initial appointment and the reappointment of Mr Gemmell and engaged in this trickery to circumvent the act. This appears to put the minister, her department, Gillard's right-hand man—Mr Leigh—and the Indigenous Land Corporation in conflict with their own act—

The PRESIDENT: You do need to refer to people in the other place by their correct title, Senator Scullion.

Senator SCULLION: I should say the Prime Minister's right-hand man. It was a Clayton's resignation, with Australian taxpayers and Indigenous Australians the losers. It was hardly a surprise when it was revealed recently that Mr Michael Dillon, former advisor to Minister Macklin, is the ILC board's recommendation for the ILC CEO role. I wrote to Minister Macklin raising concerns about Mr Dillon's apparent role during his time, either as Minister Macklin's senior advisor or in the department, with regard to the appointment of the new ILC board members in October 2011, the removal of David Galvin as the ILC's CEO in July 2012, and the current proposal to appoint a new CEO. Oddly, Mr Dillon enjoys the friendship of the new ILC board members—Dawn Casey, Olga Havnen and Neil Westbury, with whom he has co-authored a book. Dillon received emails in relation to the machinations leading to the previous CEO's removal. This sounds, again, like they are just finding another Labor bolthole. I have sent a letter asking for an explanation on these matters. I have not received a response. I table this letter.

The PRESIDENT: Before you proceed, you have said that you will table two letters. You need leave to table. Are there two letters that you are seeking to table?

Senator SCULLION: There are two separate letters, and I am seeking leave to table two separate letters.

The PRESIDENT: It is normal courtesy to show what is being tabled to those on the other side. Perhaps you could supply them, and we will take it that, unless we are otherwise advised, leave will be granted—unless otherwise advised to myself.

Senator SCULLION: Thank you very much, Mr President. I appreciate that. So, if the Prime Minister or Mr Leigh signs off on Dillon's appointment, that is it; game, set, match—the takeover has been completed. I have called on the government to direct the ILC not to proceed with this particular appointment until after the election. So many Aboriginal people across Australia depend on Indigenous Business Australia for their assistance—and there are so many really good people within Indigenous Business Australia. The Indigenous Land Council is another organisation that, by and large, is doing a fantastic job when it comes to the nuts and bolts of delivering the services they do to ensure that land is purchased if it does not have the same capacity to be granted under the Native Title Act. It provides a lot of very important functions. Should we win government, substantial structural reforms to the Indigenous Land Corporation and
Indigenous Business Australia will be priorities for us.

The PRESIDENT: I will now confirm that leave has been granted for the tabling of those letters.

Supermarkets

Senator WHISH-WILSON (Tasmania) (23:18): I rise tonight to talk briefly about competition policy, particularly with regard to supermarkets in Australia. Competition policy is a complex area. In the grocery space, this complexity is added to by the sheer amount of public and media interest in issues surrounding the supermarket duopoly. One thing I can tell people, having taken over the competition portfolio only nine months ago, is that there are no easy answers, and you cannot just superficially brush over the issues. But there are serious concerns, and very obvious concerns, for those who want to take the time to have a look at competition policy, particularly food concentration and issues surrounding that, in Australia.

The public is concerned—and rightly concerned—about small businesses such as bakeries, butchers and smaller grocers, struggling to compete with big supermarkets such as Coles and Woolworths. The major supermarkets are estimated to control anywhere between 55 and 80 per cent of the package grocery market in Australia, depending on who you talk to. There is also considerable concern about the relationship these supermarkets have with farmers and other agricultural suppliers. And there is growing evidence about the uncompetitive tactics the major supermarkets are taking in negotiating agreements with suppliers and processors in the food industry. At the same time, consumers are obtaining low prices for their groceries. How do we handle a situation in which the suppliers to the supermarkets are unable to compete and stay in business and their future is in doubt? Do we doubt that low prices will continue and that they will stay at the level they have been at into the future?

A number of community concerns have also arisen as to new supermarket sites, both in my home state of Tasmania and around the country. Many communities around Australia are dealing with the impact of major supermarkets coming to an area and changing the very fabric of their local community. Just today there are media reports about Bungendore, a town near Canberra, dealing with a proposal for a new Woolworths supermarket. Similar to other reports in the media, it is titled, 'Woolies, Coles not welcome in Bungendore'. In my home state of Tasmania there is a proposal for a Woolworths supermarket in the northern town of Shearwater, not far from Launceston. Woolworths is planning to build a supermarket 700 metres from the current town centre. I attended a public meeting there over three months ago and was genuinely surprised by the amount of feeling in the room about the supermarket proposal. People in Shearwater are worried about their local businesses—businesses that have been there since they can remember, for generations—and especially where they will be located and if it is even viable for them to be located there, should there be a major supermarket development in their area.

A number of reviews have been conducted, and no doubt there has been significant discussion in this chamber, the Senate, over a long period of time in relation to competition issues in the food and grocery sector in Australia. A number of Senate inquiries over the past few years have looked into various angles of the grocery industry and have tried to assess the validity of claims of competition abuses and abuses of market power.
In 2008, the ACCC carried out a comprehensive review of the grocery sector. They identified barriers to entry for new entrants into the market—more specifically, access to new sites—as being the biggest issue for competition in the sector. The inquiry heard evidence that Coles and Woolworths engage in deliberate strategies designed to ensure they maintain exclusive access to prime sites. This is sometimes called greenfield acquisitions. You buy the land and keep it vacant, or you make sure that you have a portfolio of real estate properties sewn up long in advance before any potential planning, so should new sites become available they are ready to go for you and for your supermarket chain. Only recently this issue was raised again by the ACCC. The current head of the ACCC, Rod Sims, was reported in the media two weeks ago, following a decision by the ACCC regarding a new supermarket site in Glenmore Park. He said that supermarket competition in new suburbs such as Glenmore was an Australia-wide issue, not just an issue in Glenmore. This is the first time the ACCC has actually knocked back a greenfield site for a supermarket.

The Greens believe a way must be found to slow the growth of the major supermarkets to allow other players to increase their market share. Suppliers and small business also need protection from abusive market power. Back in 2008, the Senate inquiry found that there were over 700 greenfield sites that have been put aside by the two major supermarkets for future expansion. While the supermarkets have agreed to whittle away and reduce that number, I have not been able to find through any research or any inquiries to the major supermarkets exactly how many sites they do have. My understanding is that it is still several hundred sites.

Greens' policies are very clearly going to target this area in terms of new supermarket development. We announced recently that we would like to see a temporary ban on all new expansion by Coles and Woolworths while the ACCC carries out a comprehensive ex-post assessment of their decisions relating to supermarkets over the past decade, particularly in regard to site selection and land banking. An ex-post assessment would also look at creeping acquisitions and the problems surrounding them. That is simply that acquisitions, when taken individually in terms of their competition impacts, is a lot harder to address. Going back and having a look at them over time might provide an interesting reference point for the ACCC, particularly in terms of getting information that they need to properly assess competition policy in this country. Ex-post assessments are very common overseas, particularly in European countries. More than 60 per cent of EU nations conduct regular ex-post assessments, yet we have never conducted one in competition policy in the food and grocery sector in Australia.

We would also like to amend section 46 of the Competition and Consumer Act 2010 to prohibit misuse of market power in reference to anti-competitive price discrimination and predatory pricing. This would include the introduction of an effects test. We would also like to grant divestiture powers to the ACCC to enable it to split up companies that have too much market power. Of course, that would be subject to the details from the ex-post assessment. We would also like to ensure that the ACCC is properly resourced to take on cases in the competitive space. We will be announcing an additional suite of competition policies in the next couple of months going into the election.

One thing that concerned me was an article in the Financial Review nearly two months ago concerning Woolworths
purchase of Barossa Valley Estate. Woolworths has already been in the wine industry. There have already been concerns around supermarkets directly buying processing facilities such as winemaking facilities. This was looked at by the ACCC who found no uncompetitive behaviour in terms of their previous acquisitions. The difference with Barossa Valley Estate is that they are also looking at buying the land that the vineyards are on and the vineyards themselves. I have written to Woolworths about this and asked them if they have further designs on buying agricultural land. This would be the first time that they would completely have closed the supply chain in terms of their business.

I think it would be a troubling precedent if large supermarkets were to buy agricultural land and the businesses on those lands. They have moved down the supply chain all the way from the retail end through to processing, and the agricultural land would be the last way to close the loop. That would potentially have significant impacts on their ability to price, particularly through predatory pricing, and force competitors out of the market. No doubt, farmers around the country would not be pleased to see the large supermarkets buying agricultural land. This is a range of issues that the Greens believe need to be addressed, and we have a series of policies to do that.

Climate Change

Senator FAULKNER (New South Wales) (23:27): Friday, 18 January 2013, was the hottest day in Sydney's recorded history. For the first time the temperature reached 45.8 degrees centigrade. On that Friday, in Hobart, the capital of this country's most temperate state, a place more than 1,000 kilometres south of Sydney, the temperature climbed to 41.8 degrees centigrade. Indeed, on that Friday, maximum temperature records were broken at 44 weather stations across the country. Friday, 18 January 2013, was the culmination of the most sustained and extensive heatwave in Australian history, the crescendo to a week where the average daily temperature across the country exceeded 39 degrees centigrade.

Extreme weather events such as last summer's record-breaking heatwave cannot be ignored. They are not merely aberrations or anomalies that can be written off as the consequence of living on a volatile continent. Extreme events are exacerbated by the fact that our climate is warming. Tonight I want to draw attention to the latest scientific evidence for climate change. I do this to reiterate my support for and the importance of action on climate change.

In April this year the Climate Commission released a comprehensive assessment of the last peer reviewed science on climate change. The report, Extreme weather, was produced not by amateurs working on the home computer in the spare room, or scientific mercenaries whose opinions can be bought for the price of a seat in a corporate boardroom, rather the report was compiled by the nation's top climate scientists and was endorsed by the country's most prestigious and trusted scientific organisations—the CSIRO and the Bureau of Meteorology. The report's findings were startling: our climate continues to warm. Since 1910 Australia's average temperature has risen by 0.9 degrees centigrade. Since 1960 the annual number of record hot days has doubled while the number of record cold days has decreased. Today, record hot days in Australia are now three times more frequent than record cold days. The hottest month in Australia since records were kept occurred in January of this year. From 2 to 8 January 2013 the nation's average maximum temperature exceeded 39 degrees centigrade. Over the last century there have only been 21 days of this
magnitude, and eight of those days occurred last summer.

The latest research suggests that the global climate system has now shifted to one that is warmer and moister than it was 50 years ago. Consequently climate change is increasing the frequency and intensity of extreme weather events—droughts, heatwaves, floods. The report prepared by the Climate Commission points out that extreme weather events are in themselves nothing new, however, climate change is influencing these events and record-breaking weather is becoming more common around the world. Severe weather events impact adversely on Australian communities and on our economy. They threaten our water security, our agricultural production and public health.

Climate change is increasing the frequency and intensity of heavy rainfall events in the country’s north as higher sea surface temperatures increase evaporation, atmospheric moisture and thus rainfall. I would not have to tell a Queensland senator such as yourself, Mr President, about events in our home state. At the same time climate change is decreasing the amount of rainfall in our southern regions. This has clear impacts on our agricultural production. For example, during 2002-03 drought was estimated to have reduced Australia’s agricultural output by 26 per cent.

Climate change is also increasing the conditions that produce bushfires. To be fair bushfires are caused by a complex mix of social and environmental factors. There is no simple causal relationship between climate change and bushfires, but the change in Australia’s climate is increasing the risk of bushfires in this country. As the Climate Commission report simply states: Daily weather conditions play a strong role in the outbreak of bushfires. Very hot, dry and windy days create very high bushfire risk. Climate change is increasing the frequency of very hot days.

We know that bushfires exact a terrible human and financial cost. Following the Black Saturday fires in Victoria in February 2009 the fire service introduced a new category of ‘catastrophic’ to its existing fire-danger rating system. This illustrates the nature of the conditions our fire services now face.

Arguably less dramatic but just as threatening to public health are heatwaves. Research at the national hazards research centre at Macquarie University argues that heatwaves represent the most significant natural hazard in terms of loss of life in Australia. The centre estimates that between 1803 and 1992 there were 4,287 fatalities directly attributable to heatwaves. The risk to public health will only become more severe as the number and intensity of heatwaves increases and as our population continues to age.

The impact of climate change in Australia is clear. The evidence is undeniable. Of course, Australia, as we all appreciate, is not alone in facing the risks of a warming planet, and I intend to speak further about those matters tomorrow evening.

Senate adjourned at 23:36

DOCUMENTS
Tabling

The following documents were tabled by the Clerk:

[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.]

Australian Hearing Services Act—Declared Hearing Services Amendment Determination 2013 (No. 1) [F2013L01109].

Australian Prudential Regulation Authority Act—Australian Prudential Regulation Authority (Confidentiality) Determination No. 13 of 2013—Information provided by locally-incorporated banks and foreign ADIs under Reporting Standard ARS 320.0 [F2013L01113].

Civil Aviation Act—

Civil Aviation Regulations—Instrument No. CASA 119/13—Directions under subregulation 235(2) relating to landing weight and landing distance required [F2013L01104].

Civil Aviation Regulations and Civil Aviation Safety Regulations—Instrument No. CASA 129/13—Authorisation – Category A maintenance authority holder in a CAR 30 organisation; Exemption – from regulation 66.130 of CASR 1998 [F2013L01108].

Civil Aviation Safety Regulations—Instrument No. CASA EX64/13—Exemption – single operation into and out of Broome conducted by Queensland Recreational Aircraft Association [F2013L01075].

Copyright Act—Declaration under section 10A, dated 22 May 2013.

Corporations Act—ASIC Class Orders—
[CO 13/518] [F2013L01102].
[CO 13/519] [F2013L01100].
[CO 13/520] [F2013L01093].
[CO 13/521] [F2013L01095].
[CO 13/522] [F2013L01101].
[CO 13/523] [F2013L01097].
[CO 13/524] [F2013L01098].
[CO 13/525] [F2013L01099].
[CO 13/526] [F2013L01091].
[CO 13/527] [F2013L01092].
[CO 13/528] [F2013L01094].
[CO 13/779] [F2013L01084].

Environment Protection and Biodiversity Conservation Act—Amendment of list of exempt native specimens—EPBC303DC/SFS/2013/41 [F2013L01079].


Hearing Services Administration Act—

Hearing Services (Eligible Persons) Amendment Determination 2013 (No. 1) [F2013L01105].

Hearing Services (Participants in the Voucher System) Amendment Determination 2013 (No. 1) [F2013L01103].

Industrial Chemicals (Notification and Assessment) Act—Cosmetics Amendment (Sunscreen) Standard 2013 [F2013L01110].

Migration Act—Migration Regulations—Instruments IMMI—
13/012—Class of persons [F2013L01073].
13/049—Regional certifying bodies and regional postcodes [F2013L01107].
13/053—Transit passengers who are eligible for a special purpose visa [F2013L011074].

National Health Act—


Personal Property Securities Act—Personal Property Securities (Fees) Determination 2013 [F2013L01071].


Radiocommunications Act—Radiocommunications (Duration of Community Television Transmitter Licences) Determination No. 1 of 2008 (Amendment No. 1 of 2013) [F2013L01077].
Remuneration Tribunal Act—
Determinations—
2013/07—Departmental Secretaries – Classification Structure and Terms and Conditions [F2013L01080].
2013/08—Specified Statutory Offices – Remuneration and Allowances [F2013L01081].
2013/09—Principal Executive Office – Classification Structure and Terms and Conditions [F2013L01087].
2013/10—Remuneration and Allowances for Holders of Full-Time Public Office [F2013L01089].
2013/11—Remuneration and Allowances for Holders of Part-Time Public Office [F2013L01086].
2013/12—Judicial and Related Offices – Remuneration and Allowances [F2013L01088].

Social Security Act—
Social Security (Exempt Lump Sum) (Defence Abuse Reparation Scheme) (DIICCSRTE) Determination 2013 [F2013L01106].
Social Security (Special Disability Trust — Discretionary Spending) (DIICCSRTE) Determination 2013 (No. 1) [F2013L01114].
Social Security (Special Disability Trust — Trust Deed, Reporting and Audit Requirements) (DIICCSRTE) Determination 2013 (No. 1) [F2013L01112].

Telecommunications Act—
Telecommunications Labelling (Customer Equipment and Customer Cabling) Amendment Notice 2013 (No. 2) [F2013L01083].


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