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**SITTING DAYS—2014**

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<td>December</td>
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- **PERTH** 585AM
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FORTY-FOURTH PARLIAMENT
FIRST SESSION—SECOND PERIOD

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

Senate Office holders
President—Senator Hon. John Joseph Hogg
Deputy President and Chair of Committees—Senator Stephen Parry
Temporary Chairs of Committees—Senators Cory Bernardi, Thomas Mark Bishop,
Suzanne Kay Boyce, Sean Edwards, David Julian Fawcett, Mark Lionel Furner,
Alexander McEachian Gallacher, Scott Ludlam, Gavin Mark Marshall,
Anne Sowerby Ruston, Dean Anthony Smith, Ursula Mary Stephens, Glenn Sterle and
Peter Stuart Whish-Wilson
Leader of the Government in the Senate—Senator Hon. Eric Abetz
Deputy Leader of the Government in the Senate—Senator Hon. George Henry Brandis QC
Leader of the Opposition in the Senate—Senator Hon. Penny Wong
Deputy Leader of the Opposition in the Senate—Senator the Hon Stephen Conroy
Manager of Government Business in the Senate—Senator Hon. Mitchell Peter Fifield
Manager of Opposition Business in the Senate—Senator Claire Moore

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

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

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</table>

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

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

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

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

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

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

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

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

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

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

**PARTY ABBREVIATIONS**


**Heads of Parliamentary Departments**

- Clerk of the Senate—R Laing
- Clerk of the House of Representatives—D Elder
- Secretary, Department of Parliamentary Services—C Mills
- Parliamentary Budget Officer—P Bowen
<table>
<thead>
<tr>
<th>Title</th>
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<tr>
<td>Prime Minister</td>
<td>The Hon Tony Abbott MP</td>
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<tr>
<td>Minister for Indigenous Affairs</td>
<td>Senator the Hon Nigel Scullion</td>
</tr>
<tr>
<td>Minister for the Public Service</td>
<td>Senator the Hon Eric Abetz</td>
</tr>
<tr>
<td>Minister Assisting the Prime Minister for Women</td>
<td>Senator the Hon Michaelia Cash</td>
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<tr>
<td>Parliamentary Secretary to the Prime Minister</td>
<td>The Hon Josh Frydenberg MP</td>
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<tr>
<td>Parliamentary Secretary to the Prime Minister</td>
<td>The Hon Alan Tudge MP</td>
</tr>
<tr>
<td>Minister for Infrastructure and Regional Development (Deputy Prime Minister)</td>
<td>The Hon Warren Truss MP</td>
</tr>
<tr>
<td>Assistant Minister for Infrastructure and Regional Development</td>
<td>The Hon Jamie Briggs MP</td>
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<tr>
<td>Minister for Foreign Affairs</td>
<td>The Hon Julie Bishop MP</td>
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<tr>
<td>Minister for Trade and Investment</td>
<td>The Hon Andrew Robb AO MP</td>
</tr>
<tr>
<td>Parliamentary Secretary to the Minister for Foreign Affairs</td>
<td>Senator the Hon Brett Mason</td>
</tr>
<tr>
<td>Minister for Employment (Leader of the Government in the Senate)</td>
<td>Senator the Hon Eric Abetz</td>
</tr>
<tr>
<td>Assistant Minister for Employment (Deputy Leader of the House)</td>
<td>The Hon Luke Hartsuyker MP</td>
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<tr>
<td>Attorney-General</td>
<td>Senator the Hon George Brandis QC</td>
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<tr>
<td>Minister for the Arts (Vice-President of the Executive Council)</td>
<td>Senator the Hon George Brandis QC</td>
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<tr>
<td>(Deputy Leader of the Government in the Senate)</td>
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<tr>
<td>Minister for Justice</td>
<td>The Hon Michael Keenan MP</td>
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<tr>
<td>Treasurer</td>
<td>The Hon Joe Hockey MP</td>
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<tr>
<td>Minister for Small Business</td>
<td>The Hon Bruce Billson MP</td>
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<tr>
<td>Acting Assistant Treasurer</td>
<td>Senator the Hon Mathias Cormann</td>
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<tr>
<td>Parliamentary Secretary to the Treasurer</td>
<td>The Hon Steven Ciobo MP</td>
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<td>Minister for Agriculture</td>
<td>The Hon Barnaby Joyce MP</td>
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<td>Senator the Hon Richard Colbeck</td>
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<td>Senator the Hon Scott Ryan</td>
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<td>Minister for Industry</td>
<td>The Hon Ian Macfarlane MP</td>
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<td>Parliamentary Secretary to the Minister for Industry</td>
<td>The Hon Bob Baldwin MP</td>
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<td>The Hon Kevin Andrews MP</td>
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<td>Senator the Hon Mitch Fifield</td>
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<tr>
<td>(Manager of Government Business in the Senate)</td>
<td>Senator the Hon Marise Payne</td>
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<tr>
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<td>The Hon Peter Dutton MP</td>
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<td>Minister for Sport</td>
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<tr>
<td>Assistant Minister for Health</td>
<td>Senator the Hon Fiona Nash</td>
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<td>Senator the Hon David Johnston</td>
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<tr>
<td>Minister for Veterans’ Affairs</td>
<td>Senator the Hon Michael Ronaldson</td>
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<tr>
<td>Minister Assisting the Prime Minister for the Centenary of ANZAC</td>
<td>Senator the Hon Michael Ronaldson</td>
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<td>The Hon Stuart Robert MP</td>
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<td>The Hon Darren Chester MP</td>
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<td><strong>Minister for the Environment</strong></td>
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<td>Senator the Hon Simon Birmingham</td>
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<tr>
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<td><strong>Minister for Finance</strong></td>
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Each box represents a portfolio. **Cabinet Ministers are shown in bold type.** As a general rule, there is one department in each portfolio. However, there is a Department of Human Services in the Social Services portfolio and a Department of Veterans’ Affairs in the Defence portfolio. The title of a department does not necessarily reflect the title of a minister in all cases.
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The PRESIDENT (Senator the Hon. John Hogg) took the chair at 12:30, read prayers and made an acknowledgement of country.

BILLS

Social Services and Other Legislation Amendment Bill 2013

Consideration of House of Representatives Message

Message No. 79 received from the House of Representatives.

Ordered that the message be considered in Committee of the Whole immediately.

Senator FIFIELD (Victoria—Manager of Government Business in the Senate and Assistant Minister for Social Services) (12:31): I move:

That the Committee does not insist on amendments 5 and 41 to which the House has disagreed and agrees to the amendments made by the House in their place.

The House of Representatives has agreed to 46 of the 48 amendments made to this legislation by the Senate. The two that were opposed both related to paid parental leave in schedule 7. The original schedule 7 was intended to remove the requirement for all employers to act as the pay clerk for the government's Paid Parental Leave Scheme. In passing the original schedule 7, the House of Representatives demonstrated its commitment to removing this administrative burden for all businesses from 1 July 2014. The Senate's revised schedule 7 would have removed that requirement only for employers with fewer than 20 employees. In opposing these amendments, the House of Representatives agreed to its own amendment that would omit schedule 7 of the bill relating to paid parental leave and make a consequential amendment to the commencement provision in the bill. This measure has since been introduced into the House of Representatives in a separate bill, the Paid Parental Leave Amendment Bill 2014.

Senator MOORE (Queensland) (12:32): The opposition will be supporting the amendment put forward by the government. We maintain our position on the issues around parental leave, and that debate will now occur under legislation brought forward by the government. In that case, we are supporting the amendment before the chair.

Senator SIEWERT (Western Australia—Australian Greens Whip) (12:33): The Greens likewise will be supporting this amendment, given that the schedule has been extracted and put into a separate bill. We will have that debate at that time. Having said that, we still do not support many of the schedules, but we see what the government has done with this particular amendment. We will have that debate on the PPL later.

The CHAIRMAN (12:33): The question is that the motion moved by Senator Fifield be agreed to.

Question agreed to.

The CHAIRMAN (12:33): The question is that the resolution of the committee be reported.

Question agreed to.
The CHAIRMAN (12:34): The committee has considered message No. 79 and has resolved not to insist on the amendments 5 and 41 and agrees to the amendments made by the House.

Senator FIFIELD (Victoria—Manager of Government Business in the Senate and Assistant Minister for Social Services) (12:34): I move:
That the report of the committee be adopted.
Question agreed to.
Resolution reported; report adopted.

Minerals Resource Rent Tax Repeal and Other Measures 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 the Senate calls on the Government to recognise that the benefits of the mining boom should be enjoyed by all Australian society by:
(a) applying a 40% tax rate to all minerals,
(b) rebating only those royalties that were in place at July 2011, and
(c) allowing depreciation on the book value of the amounts actually spent on mining infrastructure only."

Senator URQUHART (Tasmania—Deputy Opposition Whip in the Senate) (12:34): I rise to speak against the Minerals Resource Rent Tax Repeal and Other Measures Bill 2013, a bill that clearly demonstrates the policy differences between this cruel government and the Labor opposition. This is a bill that gives a $3.3 billion tax cut to Australia's largest mining companies over the forward estimates, while at the same time cutting payments and tax relief to families, small businesses and low-income earners. It is tax cuts for mining companies, but tax hikes for small companies, benefit cuts for everyday families, retirement income cuts for low-income earners, cuts to capital works in regional communities and tax hikes for those participating in geothermal exploration.

At its core this bill is not about defining a taxation regime for mineral resources in this country; at its core this bill clearly defines this government's cruel agenda—an agenda to end the so-called age of entitlement, an agenda laced with disdain for working Australians. It is disdain for the families of Australia, disdain for Australians living in the regions and disdain for Australians seeking to expand the renewable energy industry. It is an agenda we see on display every day in this place, where the language of many of those opposite shows an utter contempt for Australian workers and for Australian families. This bill clearly demonstrates the cruel nature of the Abbott government. This is a bill that cuts assistance payments to families, small businesses, low-income earners and our communities, while at the same time providing a $3.3 billion tax cut to the owners of Australia's biggest mining companies over the next four years—mining companies which are well and truly majority foreign owned. Eighty per cent of the owners of Australia's biggest mining companies are in fact foreign nationals. This bill hurts Australians while providing a tax cut to foreign nationals.
Those opposite talk about economic management, but this bill demonstrates that their economic management credentials are completely in tatters. Their Assistant Treasurer has stood down. Their carbon price repeal bill has been voted down. A key minor party, PUP, a party full of disaffected former Liberal and National party members, has indicated that it will not support this bill as it currently stands in the new Senate after July this year.

The member for Fairfax, leader of PUP, stated last week that his party will not vote for this bill while it contains the provision to abolish the income support bonus for children of Australian veterans. It is clear that this bill will not pass the Senate as it currently stands. It is now becoming apparent that this arrogant Abbott government cannot assume any of its legislation will pass after the new Senate comes together in July. This arrogant Abbott government listens to no-one and barks at everyone. This arrogant Abbott government will have to learn to listen and will have to learn to compromise if it is to pass any of its non-bipartisan legislation.

The minerals resource rent tax is a fair tax. It is a fair tax on the superprofits—yes, superprofits—realised from coal and iron ore mining in this country. It is a fair tax that has and will continue to realise significant revenue for the budget, at a time when this Liberal government is starting a conversation about a tax on visits to the GP and at a time when this Liberal government wants to increase company tax on Australia's biggest companies to pay for its unfair, unaffordable Paid Parental Leave scheme. This company tax increase will lead to increases in the prices Australian families pay for groceries, fuel, power, clothes and all the goods and services supplied and provided by Australia's biggest companies. It is a tax that is applied regardless of the profitability of the company and a tax that will not even raise the required amount to pay for their overly generous, poorly targeted Paid Parental Leave scheme. They are a tax and a Paid Parental Leave scheme that are further evidence of this Liberal government's desire to hit the hip-pockets of low- and middle-income Australians and line the pockets of the wealthiest in this country.

The minerals resource rent tax is a fair tax that only impacts on mining companies when their profits, minus deductions, are more than $75 million in a year—yes, that is profits of over $75 million a year. It is a tax that is only imposed on coal and iron ore producers in times of gross profitability. When this tax was introduced in 2011, Australia was experiencing an unprecedented boom in our resources sector, specifically in iron ore and coal, which delivered record profits to mining companies year after year. During the last tenure of those opposite, royalties as a percentage of mining profits decreased from around 40 per cent to about 15 per cent, which works out at about $35 billion that could have been invested for the benefit of all Australians if captured by a superprofits tax.

These mineral resources are nonrenewable and a large share of the profit, together with the resource, is actually shipped overseas. These are resources that can only be dug up once, that can only be sold overseas once. All Australians should benefit from the sale of our resources, not just the few who are directly involved in the mining industry. It is vital that the community who own the resources 100 per cent get a fair return on these resources to strengthen our whole economy for the future. Of course, the fact that this tax did not deliver on forecast revenue in its first years does not make it a bad tax. It is a tax designed to work in perpetuity. When profits are high, the tax will pull in significant revenue. When capital works are high and therefore deductions are high, as has been the case for the past few years, the
revenue is reduced. If profitability is low and mining companies make less than $75 million off a mine in a particular year then no superprofits tax is paid.

The tax actually provides an incentive to invest in iron ore and coalmining operations relative to a pure royalties taxation model. As the mining industry is extremely capital-intensive, it actually employs only around two per cent of Australian workers. While profits in the mining industry grew by over 250 per cent over the last decade, the mining industry only contributed seven per cent to Australia's jobs growth over that period. While the manufacturing industry continued the decades long trend of employment decline, it still employs over four times as many people as the mining industry.

The metals manufacturing industry, which includes smelting, refining and producing metal products, has not been a significant beneficiary of the mining boom. Increased competition from Chinese smelters and refineries, high energy prices and the appreciation of the Australian dollar saw value-adding in the metals manufacturing sector flatten through most of the last decade. The export volume of processed metals fell over the decade, with weakness across a wide range of refined metals. This trend will only continue as smelters continue to close. Despite there being no proposals from those opposite to assist manufacturing businesses deal with a high Australian dollar, which has been stuck well over 90c for the better part of four years, the former Labor government sought to assist non-mining companies through rational, interventionist government industry policy, but this government has a fanatical approach to free market economics—that is, of course, unless mining companies are coming cap in hand for an industry subsidy.

Just last week, the Abbott government announced a $110 million loan to a BHP Billiton and Rio Tinto joint venture in Chile, a massive loan to two of Australia's largest and most profitable mining companies, a massive loan to create jobs in Chile. But where are the jobs promised in Australia? This government has turned its back on food-processing workers in the Goulburn Valley. It has turned its back on workers at Holden. It has turned its back on a pay rise for workers in the early childhood education and care sector. It is turning its back on Qantas workers. It is turning its back on Australian scientists. It is turning its back on Australian public servants. It continues to turn its back on regions hit hard by manufacturing closures such as Geelong, north-west Melbourne and North Adelaide by not releasing any details of a regional jobs package.

This is a vindictive and secretive government. It is a government that has launched a commission of audit to recommend further cuts to government services and payments. It is a government that will not release these recommendations before the Western Australia Senate by-election in two weekends time. It is a government that seeks to cut by stealth—for instance, their cut to cleaners' wages by almost a quarter, introduced into the other place last week as part of the repeal day suite of 9,500 regulations, under the guise of the Prime Minister's red tape repeal day, a repeal day that those opposite claim will grow our economy. It is regulation repeal that will cost tens of thousands of low-paid cleaners around $200 a week from their pay.

We introduced the regulation in 2011 to tackle the exploitation of vulnerable workers in the contract cleaning industry. A 2010 Fair Work Ombudsman audit of cleaning contractors found that 40 per cent of audited businesses did not comply with workplace laws as well as the regulation. The ombudsman recovered almost $500,000 for 934 underpaid workers, a
clear case that there is a need for decent, fair regulation in this country. There is a need for fair
taxes on profitable businesses in this country, and it is not an indecent proposal to provide fair
pay and conditions for contract cleaners. These are some of the lowest paid workers in the
country, and this government is taking delight in cutting their wages by including this
regulation repeal in its repeal day. It is not an indecent proposal to provide transitional support
for businesses and workers in industries hampered by the sustained strength of the Australian
dollar. It is not an indecent proposal to impose a superprofits tax on coal and iron ore mining
companies and to use that revenue to assist families, low-income earners, small businesses,
regional communities and those exploring commercial geothermal energy.

Families at home would be surprised that the 'other measures' component of this bill
includes a provision to repeal the schoolkids bonus, a cut that will cost the average family
$15,000 over the period of their child's primary and secondary education, a cut that is not
related to the mining tax, as it was not enacted by the MRRT bill. It existed as the education
tax refund before the MRRT was introduced. The government now plans to scrap the
schoolkids bonus and not even reinstate the education tax refund. This secret cut will impact
over 32,000 Tasmanian families. Around 60,000 Tasmanian children will go without this
payment.

The schoolkids bonus delivers parents some extra help to meet the large costs associated
with sending their children to school. When the schoolkids bonus was introduced, those
opposite opposed it because they claimed it was not specifically targeted at education. They
called it a 'cash splash', and they did not trust Australian families to spend it on educational
needs. They said the education tax refund was a better way, despite the fact that millions of
families were not getting their full entitlement, and promised to increase it. The mums and
dads that I talk to spend the money on essentials; they spend it on uniforms, excursions, footy
boots, cricket bats, guitars and on recorders. It is clear that those opposite do not care about
supporting Australian families, just as they do not care about support for low-income
Australians who are saving for their retirement.

Two 'other measures' components of this bill are to stall the increase in the superannuation
guarantee and to scrap the low-income superannuation co-contribution, backdated to July
2013. If the Liberals get their way, people earning $37,000 or less a year will lose the tax
incentive to make personal contributions to their superannuation. This measure effectively
reduces the tax rate on personal superannuation contributions to zero. The Liberals do not just
want to reintroduce this tax on low-income earners saving for their retirement; they actually
want to backdate the measure, hitting 3.6 million Australians, which includes 2.1 million
working women, with an increase in their tax this year if they have made personal
contributions to their super. These people entered the 2013-14 financial year on the
understanding that they would be refunded their superannuation tax. This goes against all
standards of responsible economic management.

This bill would also abolish the income support bonus, a tax-free payment to people on
payments—including Aurstudy, Newstart, the parenting payment and payments to children of
veterans who were killed or injured in action—to help with unexpected living costs such as
medical expenses or car repairs. If the proposed abolition is successful, around 1.1 million
low-income Australians will lose the payment. It was introduced in early 2013 in recognition
of the fact that the current rates of income support allowance payments are manifestly

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inadequate. The bonus provides $210 a year to single recipients and $350 a year to most couples where both partners are eligible. The Australian Council of Social Service has estimated that 57 percent of parenting payment recipients and 28 percent of Newstart allowance recipients could not afford to pay utility bills on time, compared with 12 percent of all Australians.

That is what this government is about: unashamedly attacking Australians who are doing it tough in every way possible. This government is even attacking its supposed base—2.7 million small businesses—by slashing the instant asset write-off from $5,000 to $1,000. The 'other measures' component of the bill will also close the loss carry-back scheme utilised by up to 110,000 businesses to smooth their tax over the good and the bad years. Just like the other measures in this bill, this initiative has no friends outside of the coalition party room, with the Australian Industry Group and Council of Small Business speaking out against the removal. AiG has said that the existing arrangement provides a very important boost to a company's cash flow 'at a time when they need it most and at a time when it is going to be most critical in ensuring the survival of that business'. Further, AiG warned that the Australian economy faced a 'large gap in investment, particularly outside the mining sector', and that removing the instant write-off facility for small business would have a material effect on them and 'decrease investment at the time it is needed most'.

The other measures in this bill also impose extremely negative effects on geothermal energy exploration. Under current arrangements, geothermal energy exploration and prospecting expenditure is deductible in the income year that the asset is first used or expenditure is incurred. Under the new legislation, this expenditure would not be immediately deductible. The Australia Institute has observed:

If this measure is repealed geothermal exploration will not have the same incentives as any ordinary explorer looking for fossil fuels …

This 'other measure' is another knife in the side of renewable energy in this country.

The final 'other measure' is remarkable, given the Deputy Prime Minister and Leader of the National Party is the Minister for Infrastructure and Regional Development. In amongst re-announcing Labor government infrastructure projects and the Prime Minister claiming to be the 'infrastructure Prime Minister'—despite slashing the fibre-to-the-premises NBN: the modernisation of Australia's communications infrastructure—the Deputy Prime Minister cut round 5 of the Regional Development Australia Fund and abolished the Regional Infrastructure Fund. These measures are included in 'other measures' despite no legislative changes being required. These projects were worth about $3 million to my home state of Tasmania and included projects that would have improved the quality of life for people across the state and created jobs. These projects are supported by the local governments in these regions.

Before I conclude my speech, I will respond to the member for Braddon's comments yesterday regarding the GST distribution. I know the member for Braddon is new to this place but he should really do some research on the history of this debate before making uninformed, aggressive speeches about minority parties. The member for Braddon would do well to focus his attention on members of the Liberal Party before bullying senators elect from the Palmer United Party. The WA Liberal Premier was in the media as recently as 8 March 2014 calling for an increase in the GST to WA—therefore taking it away from Tasmania. The former WA
Treasurer, now member for Pearce, Mr Porter, dedicated a large section of his first speech to the House of Representatives criticising the current GST distribution principle, HFE, including the comment:

... the present system is too extreme, highly inequitable and propagates enormous inefficiency.

The Tasmanian people should be concerned that the Abbott Liberal government will do a deal with the PUPs to slash Tasmania's GST. So Mr Whiteley should clean up his own backyard and combat the anti-Tasmanian views of Mr Barnett and Mr Porter before seeking to bully a minority party.

This bill, which I am speaking against, gives a $3.3 billion tax cut to Australia's largest mining companies over the forward estimates—and that is unfair. (Time expired)

Senator RYAN (Victoria—Parliamentary Secretary to the Minister for Education) (12:54): As the Daleks opposite come in and continue their series of filibustering speeches to prevent the Minerals Resource Rent Tax Repeal and Other Measures Bill 2013 being brought to a vote, I have been provoked to make a response to a number of the assertions that I have heard over the last few days.

It is interesting that Senator Urquhart turned to the issue of the horizontal fiscal equalisation approach of GST distributions, which I will turn to again later. But time after time we hear from members opposite about the things and the wealth that government programs allegedly create. We hear of program after program of tax transfer after tax transfer, as if it is the state or the government that is somehow the source of all wealth. We know the truth: it is the private sector that drives wealth creation all around the world. To say otherwise is a myth sought to be propagated by those who play the politics of patronage, targeting special groups in the community for favour and targeting groups they do not like for penalty, including through the tax system. It is only the mindset of those opposite that it is the government and the public sector that creates wealth.

What I cannot understand in the speech that I just heard—and we have heard it day after day in this place—is that it is apparently rent seeking when a series of companies come to the national parliament or go to the people of Australia to argue against the tax. They are arguing against a new tax to be imposed on you, your businesses and your investments in a retrospective fashion, which is what the RSPT proposed—and this is somehow rent seeking. Yet I heard Senator Urquhart, who spoke before me, reading out a list of business organisations that are somehow critical of various measures that the government is proposing. This government wishes to propose measures that are in the national interest. Some of those will involve sacrifice, such as those read out by Senator Urquhart—the unfunded schoolkids bonus. When Senator Urquhart talks about people not spending their entitlement under the previous education tax offset, that betrays her mentality. It was not an entitlement; it was a refund to support children's education, if you actually spent the money on their education. But the use of the word 'entitlement' betrays the agenda of the Labor Party, because they are about handing out cash to favoured groups. Yet, when Senator Urquhart quotes AiG and other business groups somehow opposing measures that this government has proposed to bring the budget into balance, we do not hear claims of rent seeking. We only hear those opposite screaming about rent seeking when corporations that have been the font of our national wealth over the last few years, particularly in an export sense, are involved. All they did was say, 'Please consult with us and don't subject us to this new retrospective tax.'
There are some other fallacies underlying the arguments put by those opposite, particularly about the ownership of resources. They say Australians own these resources and Australians must actually get the benefit from their mining and export—and they do, but it is not through the Commonwealth. The Commonwealth does not own these resources. The people of Australia, through the states, own these resources and they collect a benefit via the royalties levied by state and territory governments. The Commonwealth could, if it wished, seize the royalties from the Northern Territory—and, if there were any mining in the ACT or Jervis Bay, I am sure they could do it there too. These resources belong to the people assembled in the states of Australia, and that is where they get their benefit.

I cannot help but note the irony of those opposite—particularly their fellow travellers in the corner, the green movement—openly talking about wanting to shut down the coal industry but at the same time talking about how we have to somehow get value for these products before they are exported. The truth is that, unlike rare minerals and petroleum, these products are not rare. No-one can predict at what point in human history the earth will run out of coal or iron ore. They are all through the earth's crust, as any geologist will tell you. What is rare is the capital and the means to get them to market efficiently and reliably, year after year, that funds the investment that their users have to undertake. It is the capital which does that. It is the investment that enables those products to come to market efficiently and reliably. This is the rare commodity in mining coal and iron ore. It is about the competition for capital to bring those products to market.

Somehow those opposite have the idea that we might run out of coal or iron ore and that it is only mined once and so we need to make sure that we extract value for the Australian taxpayer. But this material will be mined for all the future. In fact, if the Greens have their way they will shut it down sooner than anyone else, and sooner than the market would allow.

Our job is to facilitate the production and export of as much of this as possible while the prices are high because we do not know what technology will come about. In future years there may not be a need for coal or iron ore in the same quantities as there is now. There may be technological change. Whale oil was once used for lighting our lamps. We do not have typewriter factories anymore. So our job is to deal with the opportunity we have now, which is to dig up and export as much of it as possible at the highest prices we can, at the lowest cost base. That is in the best interests of Australia.

There is another fallacy that somehow corporations do not pay their fair share. The mining companies pay royalties. They are large employers; they pay payroll taxes. They pay the same corporations and company taxes that every other Australian company does. In fact, their contribution has been rising in recent years, reflecting the high volumes and the high prices.

I note that Senator Whish-Wilson yesterday accused the government of thinking taxes are an evil. He had a quote from an author I was not familiar with, who was talking about how taxes are a positive. I think taxes are a necessary evil but they do impose a cost on the economy through the dead weight of taxation. There is an efficiency loss every time a government sets a tax. Taxes impose a burden in terms of taking someone's earned wealth from them and giving it to someone else. That is something that is a necessary evil but is not something that we should seek to propagate.

I want to turn to the last issue that Senator Urquhart mentioned, which is the impact of horizontal fiscal equalisation. This is really what this tax was about. At the moment, when
Western Australia collects royalties on iron ore, or Queensland and New South Wales do on coal, that becomes part of what is broadly termed the pool of state revenues that are subject to horizontal fiscal equalisation. I say, as a Victorian senator, that my state has been a net contributor to that scheme since its inception just over 80 years ago. We have had recent complaints from Western Australia about their share of GST take falling. That reflects the revenue they have brought in from royalties.

If we put aside the debate about fairness or otherwise of particular levels of equalisation we will see that there is one fact that cannot be assaulted by those opposite—that is, that there is more GST revenue to distribute to Tasmania, South Australia and even to states like Victoria, because the royalties are collected by the states. If the royalties went away and WA got more GST money because it did not have the state revenue base of the iron ore royalties and New South Wales did not have the revenue base of the coal royalties—if those were taken away and collected by the Commonwealth—every state would receive less money.

I say, particularly to those senators from Tasmania or South Australia, who are recipients: you will receive less money if the Commonwealth takes away royalties. You will receive less GST money. There will be less money for nurses, teachers, hospitals, fire stations and everything else you talk about. You do not understand the way fiscal equalisation works. Royalties are added to the state revenue pot. The GST is then distributed taking those royalty collections into account. So every Victorian, South Australian and Tasmanian benefits by WA collecting iron ore royalties and Queensland collecting coal royalties.

The first attempt at this tax was to try and get the state not to collect royalties—to hand that revenue source to the Commonwealth. That was nothing less than another Labor assault on our Federation. What it would have meant is less GST distribution and less revenue for all states in the country, because the overall pot of revenue that was being distributed to the states would have shrunk. That is the key element for everyone who is not a direct victim of this tax. This tax is nothing less than an assault on Western Australians—a state that has paid the penalty through lower tax distributions and horizontal fiscal equalisations since Sir Charles Court undertook this investment.

This is a tax on the success of businesses and the state of Western Australia in effectively driving this business when no-one thought iron ore was going to be such an important commodity. In fact, it is not that long ago that I was at university being taught that iron ore, agriculture and mining were not the future for Australia. So we need to remain a little bit humble. It was the investment of the Western Australia government, particularly under Sir Charles Court, that put Australia in a position to take full advantage of this boom to our north and rapid urbanisation and industrialisation in China in particular. That state should not be penalised because they have been a success. But that is what the modern-day Labor Party does.

I will finish on what I think was the ultimate irony of the speech of my predecessor in this debate. She was talking about the pressure people face in paying their utility bills. Given that it was less than a week ago in this place when the Labor Party voted against the repeal of the carbon tax—which they advertised as apparently only 10 per cent of electricity bills!—no-one should take their crocodile tears seriously about people struggling to pay utility bills. They voted to keep them high. The voted to make them high and now they are voting to keep them
high. They refused to listen to the mandate of the Australian people. They will pay the price for not listening to the people of Australia, because there was no more central issue—

Senator Urquhart interjecting—

The ACTING DEPUTY PRESIDENT (Senator Fawcett): Order! Senator Ryan, resume your seat. I remind senators on my left that Senator Ryan has the right to be heard in silence.

Senator RYAN: There was no more central issue in the last election than the repeal of the carbon tax.

Senator THORP (Tasmania) (13:06): In presenting this bill to us today the government once again shows that it is single-mindedly intent on its own particular brand of redistribution of Australian wealth. But I suspect this particular redistribution would have Robin Hood turning in his grave. Sadly, this bunch of merry men seem intent on stealing from everyday Australians in order to line the pockets of the rich, powerful and well connected—Robin Hood in reverse, if you like.

This is a government that is so far from the government they said they would be that they are almost unrecognisable. This is a government that seems to be completely uninterested in addressing disadvantage and creating a more equal, inclusive Australian society. Not only are they doing nothing to address inequality but they seem set on actively widening the gaps between the haves and the have-nots through legislation of the sort that we are dealing with today.

In this legislation the government brazenly robs from low-income earners, families and small businesses in order to line the pockets of multinationals and mining magnates. Not only that but in doing so they are forcing a multibillion-dollar revenue hit to our country's bottom line. Recently those on the other side started to go back to their tried and true mantra of the 'budget emergency' they say is facing the country. They used this confection before the election to scare the Australian public into voting for them and they continue to use it to justify harsh cuts to those who can least afford it.

Despite this, they were quite happy to provide an unrequested $9 billion to the RBA, even though experts confirmed that our national bank was suffering no problems of liquidity, and only a few weeks after gaining the keys to the ministerial wing they even had the audacity to request a 66 per cent increase to Australia's credit card bill while refusing to produce any information to back up their request. These are hardly the actions of a government concerned about cutting back on spending across the board. Strangely enough, we now see that they are so unconcerned about the state of the books that they are willing to forgo billions worth of revenue in order to give the likes of Gina Rinehart a belated Christmas present.

The minerals resource rent tax is based on the important tenet that Australia's mineral wealth belongs to Australians. It is based on the idea that, while international investment is important, Australians deserve to be compensated for the removal of mineral wealth that cannot be renewed. Labor supports the need to spread the benefits of mining activity in Australia to all Australians, not just to the rich and well connected. That is why we will not support the repeal of the minerals resource rent tax.

We have heard a lot of spin about the tax and, not surprisingly, big miners have argued that the tax could send them to the wall. The government has used this to justify a threat to Australian jobs. The position is a little hard to justify when you consider that the mining
industry employs only two per cent of the Australian workforce, or 251,000 people, according to the Australian Bureau of Statistics. In contrast, manufacturing employs almost quadruple that number at just under a million jobs. If the government really cared about jobs, surely they would not have turned their backs on our car industry. Even if mining were the largest employer in the country, would the mining tax still be a threat to jobs? The answer is simply no. The truth is that the MRRT only affects those companies that are already making a significant amount of money on the back of Australia's mineral wealth. The reality is that the MRRT is not even based on revenue but, rather, profits.

In fact, when the Henry review called for submissions, the Minerals Council of Australia itself put forward a recommendation arguing in favour of a profits based tax as the most efficient means of taxing resources. This is an important point. This is a tax on superprofits, not revenue. In fact, companies are not liable to pay the tax until their profits reach $75 million. I find it hard to believe that any company that is making $75 million in profit—I reiterate: that is not revenue but profit—should not be contributing their share to our nation. A profit based system is much fairer than a royalties system because it means that if the price of resources goes up companies make more money and more money flows back to the Australian taxpayer. It is a no-brainer. In a royalties based system, when the price goes up there is no corresponding increase in wealth going back to the Australian people. So, despite the hype, no business was ever going to go bankrupt through the MRRT as it was only ever going to be levied upon businesses that were achieving lucrative superprofits.

So we have a government which is forgoing this vital revenue despite bleating excessively about a 'budget emergency' to anyone who would listen and threatening large-scale cuts to the areas of society that can least bear it. As a result, if this legislation passes, we will see families, small businesses and working Australians taking a big hit. Small businesses will bear the brunt of the removal of nearly $4 billion in tax concessions which were recommended in the widely lauded Henry review. The bill will repeal the instant write-off for assets costing less than $6,500. It also repeals the loss carry-back measures which allow companies to carry back losses up to a $1 million threshold. This measure was brought in by the previous Labor government in recognition of the fact that businesses do not run to a 12-month cycle and that profits can fluctuate significantly from year to year. Under Labor, this would have increased to two years from this financial year, giving businesses an extra fund injection in order to further invest in their businesses. Is it any wonder that the Australian Industry Group denounced these moves in its submission to the government, saying that they will permanently increase compliance costs and cut investment returns at a time when businesses can least afford it?

Small businesses will also lose the special motor vehicle reduction which allowed them to claim up to $5,000 as an immediate deduction for vehicles costing $6,500 or more. Families will suffer as a result of this bill as it rips away the schoolkids bonus which was put in place to help struggling families meet the cost of their children's education. In taking away the schoolkids bonus the government has been indulging in some serious misrepresentations of the truth by saying that it was linked to the minerals resource rent tax and, with the repeal of the bill, it must also go.

The idea that a government cannot make its own spending decisions on anything is an absolute nonsense. Those opposite, as the government of the day, will always have a choice
about when and how money is spent. To suggest otherwise is completely disingenuous. This flimsy justification is based on a bald-faced lie. The schoolkids bonus was never linked to funding from the mining tax. In fact, it replaced the education bonus to make it fairer and simpler for families to access help with the cost of their children's education.

I know very well from talking to Tasmanian families how important the schoolkids bonus has been in helping alleviate unavoidable costs of education, such as textbooks and uniforms. Many have also shared their concerns with me about how they are going to manage these costs if the government gets its way and repeals this vital support. This is a government of confused, inconsistent messages at best and brute hypocrisy at worst. In one breath they tell us that all they care about is removing the cost-of-living burden from the typical Australian family and in the next they tell us exactly how they are going to rip away thousands of dollars from those who can least afford it. Not only are the government ripping away the schoolkids bonus but they have then gone further by slugging Australia's lowest paid workers to pay for their mining tax abolition. By removing the low income superannuation contribution the government will reimpose a 15 per cent tax on workers who earn less than $37,000 a year. If this bill passes, it will mean the lowest paid workers in our country will be up to $500 a year worse off.

We in this place are lucky to have very generous compensation for the work we do, so perhaps those on the other side think $500 does not seem like much money. Maybe they would even budget this much for a special night out at a restaurant. But for those who earn less than $37,000 it could be the difference between driving an unsafe car and finding the money to have it serviced or between paying the winter heating bill and shivering through the cold months with nothing to take the edge off the cold. To put this in perspective, this callous move will impact on up to 3.6 million Australian workers. In my home state, 90,000 hardworking Tasmanians will have to find an extra $500 in already stretched budgets just to pay for basics such as food, electricity, rent and clothing.

The bill will also rip away the income support bonus, which is designed to help those who survive on the lowest wage of anyone in this country with one-off payments. This is all so that some of the most profitable companies in the world can get a reduction on their tax bill. In what world could this possibly be seen as fair? And the pain for workers does not stop there. This series of bills also stalls the important increase in superannuation from nine per cent to 12, which represents a blow to the future retirement savings of millions of Australians. It was Labor that brought in this forward-thinking reform in recognition of the fact that 12 per cent superannuation is recognised as the amount people need to put aside if they are to have enough money when retirement time arrives. By turning its back on this plan the government will not only reduce superannuation balances by thousands of dollars but also increase the burden for future governments, which will be lumbered with higher pension and welfare support costs than necessary.

Another short-sighted inclusion in this package of bad legislation is the scrapping of legislation which allows companies to immediately deduct expenses incurred through geothermal exploration. Labor brought in this deduction in 2011 in recognition of the importance of investing in renewable sources of energy. While there is currently no commercial geothermal energy production in Australia, Geoscience Australia predicts that just one per cent of shallow geothermal energy could supply Australia's energy needs for as
much as 26,000 years. By removing this deduction the government is essentially removing incentives for investment in renewable technologies, which ensures that we will remain dependent on dirty fossil fuels for longer than we might otherwise need to. They are holding back on the necessary transition to a low-carbon economy, which will ultimately lead to Australia becoming uncompetitive as the rest of the world rushes to embrace low-cost renewable energy sources. This should not really come as much of a surprise given that this government is also trying to single-handedly dismantle the entire tool kit that Australia has to deal with climate change in favour of the Direct Action Plan.

I am currently the chair of the Direct Action Plan Senate inquiry and I can tell you that we have not heard from one witness who supports Direct Action as a viable stand-alone solution to addressing climate change. We have been told it is little more than an expensive slush fund for polluters that will ultimately be completely ineffective in addressing climate change. Interestingly the Direct Action Plan will also see millions of dollars flowing to wealthy companies while the rest of Australia picks up the tab.

I am sure it is not just me who can see parallels between Direct Action and the set of bills that is before us today. Both will cause a massive billion-dollar hit to the budget and both will provide multimillion-dollar benefits to big polluters and resource companies. Most importantly, both seem to be completely intent on acting against the national interest. Unlike my colleague Senator Ryan we need to remember that resources are finite. Once they have been dug up and sold off, there will be no more. We also need to remember that they belong to the people of Australia, and it is only fair that the people of Australia get to share in the benefits of this mineral wealth.

But it is clear that the coalition were not the only winners when they won government in September. It is clear that mining magnates also hit the jackpot on the back of the election result. We are seeing the proof of it today in this package of bills. Ironically, one of the most spouted arguments from those on the other side about this tax was that it did not raise enough revenue. So it seems strange that, rather than making the tax more expansive, in order to correct their perception of this failure they are deciding to forgo the revenue entirely. If you put this to any reasonable person, they would ask the obvious question: why would a government that is so concerned about flagging revenue make it one of their first orders of business to further slash incoming funds? Why would a government that cares about working families and businesses wantonly slash the very measures designed to give them a helping hand and make the cost pressures that little bit easier to bear?

Donation records from the Australian Electoral Commission might provide us with a clue to solving this mystery. These records tell us that since 2007, when the minerals resource rent tax was first proposed, the coalition was the happy beneficiary of more than $3 million from the mining industry. This compares to the $119,500 that was given to Labor and not a penny to the Greens. We need to recognise that, if nothing else, big businesses are pragmatic. In fact, they have a legal obligation to their shareholders to make effective spending decisions that are in the best interests of their shareholders. These are not the kinds of organisations that will throw money around willy-nilly if no financial return is to be gained. Could it be that the coalition is returning this generous favour in the form of a belated Christmas tax cut? Could it be that this government is slashing benefits for millions of Australians in order to pay its dues to its mining masters? I can only speculate about what its motivations might be. But the
figures do not lie. However, if that is the case, we can see that these donations have indeed been a smart move for the mining magnates, who by spending a meagre $3 million have netted themselves a $3.7 billion windfall. Nice return if you can get it! It seems the age of entitlement may be over for struggling businesses, disabled people or those looking for work, but it is alive and well for big corporations and mining companies.

Australia voted for a government that would act in the interests of all Australians—a government that would maintain spending in important areas of health, education and support for people with disabilities. What we have got is something very different—a government which seems to govern solely for the rich, the miners and the elite, at the expense of millions of Australians who are doing it tough. This is not the government we were promised.

Senator FARRELL (South Australia) (13:22): I rise to speak on the Minerals Resource Rent Tax Repeal and Other Measures Bill 2013 and indicate that I oppose this legislation that is being introduced by the government. I have had the opportunity of listening to both Senator Urquhart and Senator Thorp and find myself in furious agreement with them on the reasons for opposing this very bad piece of public policy.

I think it is worth starting my contribution to this debate by pointing out that the legislation which this bill seeks to repeal was one of the really terrific things that the former Gillard government was able to do in its time in government. I personally am very proud to have been part of a government that introduced that legislation and that got it through the parliament. We as a country are now seeing the financial benefits of that legislation in our tax system. It was a controversial piece of legislation at the time. It took the tremendous negotiating skills and talents of former Prime Minister Gillard to reach an outcome. She sat down with senior officials in the mining industry and negotiated an outcome. I guess it is true to say that the money that we thought was going to come from that legislation has not yet arrived—Senator Back: Didn't!

Senator FARRELL: in the federal Treasury. Senator Back laughs at that. Mr Acting Deputy President, as I am sure you would know, there was an opportunity at the time of a massive boom in the price of our minerals that we were exporting overseas to ensure that not just the shareholders of some of the biggest and wealthiest companies in the world but all Australians got to benefit by sharing the wealth that this mining boom had produced for Australia. That was exactly the intent and purpose of the legislation and that is exactly what the legislation has started to achieve.

Why has the tax not delivered as much revenue as people might have expected? Of course, the huge prices of some of the commodities that were taxed by this legislation have come down. It was always expected that the income from the tax would rise and fall along with the price of these minerals. So it is not unexpected that, when the price of commodities goes down, that also affects the tax. That was how the legislation was designed in the first place. I thought it was a terrific piece of legislation. I am bitterly disappointed that the then opposition, now government, is opposed to the legislation and is seeking to repeal it.

Some of the beneficiaries of this legislation are in the area that I am responsible for—that is, veterans. And, for the life of me, I cannot understand why this government is saying to the children of veterans, 'We're going to replace this tax and, as a result, we're going to take away from you the $211 per year that, under this legislation, you receive as a benefit.' I cannot work
out why the government is proposing to do that. You may know, Mr Acting Deputy President, that I am seeking to permanently reverse that decision later on this afternoon. But I cannot work out why this government is being so callous and heartless to the children of our veterans by seeking to take away that benefit. It does not cost a lot—in the vicinity of a quarter of a million dollars a year. To this government, that is chickenfeed. It is a fraction of the benefit that high-paid women will receive from the federal government's paid maternity leave provisions. I cannot understand why this government wants to penalise that class of person in our country. But there are many other people who will be penalised. We heard from both Senator Urquhart and Senator Thorp about some of the other people—for example, superannuants were going to receive a benefit from this legislation. If this legislation is repealed—and I am hopeful it will not be repealed—then of course they will lose that benefit. Also, the low paid—women in particular—are vulnerable to missing out if this legislation is passed.

We have heard from Senator Thorp. She talked about developing so-called hot rocks. That was one thing the former government sought to support. I know there are hot rock projects in Western Australia, but the bulk of them, you would be interested to know, Acting Deputy President Fawcett—and I am sure you do know—are in South Australia. South Australia was going to be one of the very big beneficiaries. We know that some of the hottest places on earth are under the northern part of South Australia.

The funds that were raised by this tax were going to develop projects seeking to exploit that energy. It is clean and green energy, it is a very good source of energy, and it is an almost indefinite source of energy. If this legislation goes through, the companies that were benefiting from the contribution from the federal government will find themselves in a much more difficult situation and a potentially game-changing industry will not get the support from the government that it ought to.

It is probably not surprising when you think about it. If you listened to Senator Ryan's contribution—I am sorry he is not in the chamber—he made pretty clear the hard-line economic plan of this government. We have already seen it in his home state with the Toyota closures. We have certainly seen the consequence of this hard-line economic approach to our economy in the old seat that you used to represent in South Australia, Acting Deputy President Fawcett, in the future job losses at Holden. It was a terrible decision which was symptomatic of a government that is not interested in providing assistance the way governments ought to to solve problems in our community.

The MRRT legislation did that. It was finely balanced. It took income from a part of the community which was doing particularly well and sought to spread the benefit around the community. The more I think about it and the more I listen to Senator Ryan's contribution, that is not the approach that this government is taking, but you are wrong about it. I have already indicated some groups of people who are going to be particularly hard hit if this legislation comes through.

You want to take away this tax. I understand that; it is part of your proposal. But what I cannot understand—and this is an issue that I know you have been involved in, Acting Deputy President Fawcett—is that you have been so slow in opening up the Woomera defence area to mining. You have been involved in some of the discussions, Acting Deputy
President Fawcett, and are fully aware that the former Labor government had a piece of legislation which it was ready to push through the Senate just before we rose for the election.

That legislation could have been supported by the then opposition. It had been supported in the lower house of the parliament, and no issues had ever been raised. Of course, you sided with the Greens and referred the issue to a committee, which then meant that the legislation was not passed. I was told that it was going to be one of your priority issues and that as soon as the parliament came back you were going to rush it back in and pass it before Christmas. Of course, that did not happen.

I was then forced to introduce a private member's bill to get the issue moving. We were again told that you would come forward with the legislation after Christmas, but that did not happen. We debated the bill and it is still sitting there; it has not been voted on. You have managed to talk it out. I think it is fair to say that South Australians believe that they are being punished by the new government because you are not supporting the legislation. You could have supported it in the last session of the parliament, but you punished South Australians because they did not vote the way you expected them to vote at the state election.

More than nine months have now gone by. You could have introduced that legislation. In fact, you could have supported us last year. That would have been the ideal situation. For nine months we could have been doing things in the minerals area to explore and get mining moving in South Australia. You have left it for nine months, so an opportunity has been lost in those nine months to seek, explore and get a benefit for my home state of South Australia and the country generally. We could have been out there finding minerals, exploiting them and selling them overseas. And we could have been raising taxes as a result of all of those things. For nine months this government has sat on its hands.

I hope that by introducing my private member's bill on this issue I will eventually embarrass you into introducing your own legislation on it, because we do not have a moment to lose in South Australia. I can see you are nodding, Acting Deputy President Fawcett, because I know that you know I am right on this issue. We do not have a moment to lose. You have dropped the ball on Holden; you have dropped the ball on Woomera. I desperately hope that in the very near future we are going to see your own piece of legislation that can deal with this issue.

If we do see that, we can start exploration and find minerals. As you know, there is an expectation of that in all the information from Geoscience Australia, which is a terrific organisation. Interestingly, every time somebody drills in a mine, Geoscience Australia get a sample, and you can go and have a look at all of the products of that exploration here in Canberra.

Had you done what we wanted you to do last year, people would be out there; they would be making money; they would be making discoveries—and, of course, all of the benefit of that income would be flowing into the federal Treasury right now. On the one hand, you are desperate to remove this relatively small tax, but you are so slow to go out there and exploit our minerals, particularly in South Australia, which would have resulted in some new wealth being generated for this country. I personally cannot understand your thinking on this. I just cannot understand.
You could be out there. You could leave the legislation as it is, and you could be out there generating new wealth by discoveries in the Gawler Craton in South Australia, and you would not need to do what you are doing. You would not need to punish the children of veterans. You would not need to take superannuation away from low-income earners and women. You would not need to abandon the research in the hot rocks area which has the tremendous potential to change energy delivery in this country. I just think it is a mystery that your priorities are all skewed.

We should be raising income. We should be encouraging mining. We should be out there encouraging exploration. That is the way to build our country and to build our wealth. In that way, you get the money that you need to run this country, and you do not need to take this away.

As we have heard on a number of occasions, the government has not worked out why it does not like this legislation. On the one hand it says, 'Well, it's not raising enough money,' and on the other hand it says, 'But it's an impediment to mining.' It cannot be both. You have to pick one or the other and you have to settle on it, but it cannot be both of those arguments. And yet those are the two arguments that this government has been using—but they cannot both be right.

The reality is that neither of those arguments is correct. The legislation being repealed is a piece of legislation which fairly distributes wealth in this country. It is a good piece of legislation, and we should not be here today seeking to repeal or overturn it. There are lots of other ways to deal with the issues. Obviously there have been some delays from the government side in terms of preparation for their budget. We do not know why they are keeping so much information under wraps. We thought it was because of the Tasmanian and South Australian elections, but they were two weeks ago. Perhaps it is because there is an election on in a couple of weeks in Western Australia. The government do not want to tell us what they are proposing to do in terms of dealing with the budget and raising all of those issues that are associated with the budget. They are not telling us.

But, whatever their plan to deal with the issue of the deficit is, this is the wrong way of going about it. You do not improve your bottom line in a deficit situation by removing part of your income. You just do not do it. It just does not make sense. If they are right that this is not raising as much money as people thought, then really it is not an issue to leave it as it is and to keep all of those associated benefits that Senator Thorp mentioned—that flow to the Australian people from the revenue that is raised in the piece of legislation.

So I oppose this legislation. I believe the government is heading in the wrong direction in this legislation. I can see Senator Fifield—

Senator Fifield: Really? Really? Really?

Senator FARRELL: Yes, I do. You have not heard all of my contribution, Senator Fifield, but I think I have very—

The ACTING DEPUTY PRESIDENT (Senator Fawcett): Senator Farrell, I remind you to make your remarks through the chair.

Senator FARRELL: I am very sorry about that. Senator Fifield sought to distract me, but future comments will be made through the chair, Acting Deputy President.
Senator Cameron interjecting—

Senator FARRELL: No, he did distract me, I am afraid to say, but I shall ensure that any future comments are made through the chair.

I oppose this legislation. I oppose it on very good public policy grounds. The repeal of the legislation is a mistake. Over time—and I am hopeful that the legislation will not be repealed, but if it is repealed—I think this government will come to understand in the future what a dreadful, dreadful mistake it has made.

Senator CORMANN (Western Australia—Minister for Finance) (13:42): I thank all those senators who have participated in the debate on the Minerals Resource Rent Tax Repeal and Other Measures Bill 2013. Let me just conclude by observing once again that Labor's mining tax is a very bad tax. It is bad for the economy. It is bad for jobs. It is bad in particular for the great state of Western Australia. It was designed deliberately by Labor to hold Western Australia back, to make it harder for Western Australia to be successful, to make it harder for Western Australia to grow the economy more strongly and create more jobs. This, of course, in turn is bad news for our national economy and bad news for our capacity to create more jobs nationally. Furthermore, not only is this a tax which is a dog's breakfast in terms of its complexity, in terms of the distortions it creates in the economy and in terms of its inefficiency; it is a tax which is costly to administer for the Commonwealth and costly to comply with for the mining industry. It has tied an important industry for Australia up in massive, costly red tape while not raising any meaningful revenue.

Not raising any meaningful revenue has not stopped Labor—quite cruelly, I would say—from making a whole series of unfunded spending promises left, right and centre to a whole series of otherwise meritorious causes. But, when you do not have the money to pay for it, you do not have the money to pay for it. We in this government are committed to ensuring that we put Australia back on track, that we build a stronger economy where we can create more jobs, that we repair the budget mess that we have inherited from our predecessors and that then we rebuild from a stronger foundation. A stronger economy is good not only for the prosperity of the nation but also in terms of increased government revenue without the need for all these new, bad and complex additional taxes. Once you have a stronger economy and you have generated more revenue and put the budget back in the black, you are able to afford to do some of the things that are sensible.

I advise the chamber that under the Military Rehabilitation and Compensation Act Education and Training Scheme and the Veterans' Children Education Scheme, the children of veterans are entitled to non-means-tested assistance for their education. Depending on their circumstances—for example, whether they are living at home or away from home, whether they are homeless or double orphans—they will receive annual payments of up to $13,312 per annum. There are additional payments for single orphans of up to $1,036 per year. In addition they can receive special financial assistance of up to $4,000 in fares allowance, rent assistance, additional tuition assistance and guidance and counselling. Repealing the income support bonus payments across the board was a 2013 election commitment made by this government on the basis that it was an unfunded promise linked to Labor's failed mining tax.

This is a debate that has been going on for long enough. Today the people of Western Australia will have the opportunity to observe who in this Senate stands up for the best interests of the great state of Western Australia and who in this Senate continues to persist
with trying to impose anti-Western Australian taxes that make it harder for the great state of Western Australia to be as successful as it can be and make it harder for our national economy to be as successful as it can be. I commend the bill to the Senate.

The ACTING DEPUTY PRESIDENT (Senator Fawcett): The question is that the amendment moved by Senator Milne be agreed to.

The Senate divided. [13:51]
(The President—Senator Hogg)

Ayes ......................8
Noes ......................47
Majority...............39

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

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

NOES
Back, CJ
Bernardi, C
Bilyk, CL (teller)
Birmingham, SJ
Bishop, TM
Brown, CL
Cameron, DN
Carr, KJ
Collins, JMA
Conroy, SM
Cormann, M
Dastyari, S
Edwards, S
Eggleston, A
Fawcett, DJ
Fifield, MP
Furner, ML
Gallacher, AM
Hogg, JJ
Kroger, H
Lines, S
Ludwig, JW
Lundy, KA
Madigan, JJ
Marshall, GM
McEwen, A
McKenzie, B
Moore, CM
Nash, F
O'Neill, DM
O'Sullivan, B
Parry, S
Peris, N
Polley, H
Ronaldson, M
Ruston, A
Ryan, SM
Seselja, Z
Singh, LM
Smith, D
Stephens, U
Sterle, G
Thorp, LE
Tillem, M
Urquhart, AE
Williams, JR
Xenophon, N

Question negatived.

Senator MILNE (Tasmania—Leader of the Australian Greens) (13:55): I seek leave to move the second second reading amendment which I foreshadowed in my second reading speech. The amendment has been circulated and it pertains to the low-income superannuation contribution.
Leave not granted.

The PRESIDENT: The question is that the bill be now read a second time.

The Senate divided. [14:01]

(The President—Senator Hogg)

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

AYES

Back, CJ
Birmingham, SJ
Bushby, DC
Edwards, S
Fawcett, DJ
Fifield, MP
Kroger, H
Mason, B
Nash, F
Parry, S
Ronaldson, M
Ryan, SM
Seselja, Z
Smith, D
Xenophon, N

Bernardi, C
Boyce, SK
Cormann, M
Eggleston, A
Fierravanti-Wells, C
Heffernan, W
Madigan, JJ
McKenzie, B (teller)
O’Sullivan, B
Payne, MA
Ruston, A
Scullion, NG
Sinodinos, A
Williams, JR

NOES

Bilyk, CL (teller)
Brown, CL
Carr, KJ
Conroy, SM
Farrell, D
Furner, ML
Hanson-Young, SC
Lines, S
Lundy, KA
McEwen, A
Moore, CM
Peris, N
Rhiannon, L
Singh, LM
Sterle, G
Tillem, M
Waters, LJ
Wright, PL

Bishop, TM
Cameron, DN
Collins, JMA
Di Natale, R
Faulkner, J
Gallacher, AM
Hogg, JJ
Ludwig, JW
Marshall, GM
Milne, C
O’Neill, DM
Polley, H
Siewert, R
Stephens, U
Thorp, LE
Urquhart, AE
Whish-Wilson, PS

PAIRS

Boswell, RLD
Brandis, GH
Colbeck, R
Johnston, D

McLucas, J
Wong, P
Ludlam, S
Pratt, LC
MINISTERIAL ARRANGEMENTS

Senator ABETZ (Tasmania—Leader of the Government in the Senate, Minister Assisting the Prime Minister for the Public Service and Minister for Employment) (14:04): I inform the Senate that Senator Michaelia Cash, the Minister Assisting the Prime Minister for Women and the Assistant Minister for Immigration and Border Protection is absent from the Senate again today, regrettably. For the purposes of question time, Senator the Hon. George Brandis has agreed to represent Senator Cash in her role as the Assistant Minister for Immigration and Border Protection and Senator the Hon. Marise Payne will represent Senator Cash in her capacity as Minister Assisting the Prime Minister for Women.

DISTINGUISHED VISITORS

The PRESIDENT (14:05): I draw to the attention of honourable senators the presence in the chamber of the Speaker of the New Zealand House of Representatives, the Rt Hon. David Carter. Mr Speaker is accompanied by the Clerk of the House of Representatives, Ms Mary Harris. On behalf of all senators, I wish you a warm welcome to Australia and, in particular, to the Senate.

With the concurrence of honourable senators, I would ask the Speaker to take a seat on the floor of the Senate.

Honourable senators: Hear, hear!

The Rt Hon. David Carter was then seated accordingly.

QUESTIONS WITHOUT NOTICE

Future of Financial Advice

Senator DASTYARI (New South Wales) (14:05): My question is to the Acting Assistant Treasurer, Senator Cormann. I refer to his statement on Friday to the Australian Financial Review where he said, 'We will continue to implement the government's FoFA reforms in full.' I also refer to his statement to the same paper on Monday in which he declared he had 'decided to pause the process on the FoFA regulation'. What is the minister's position today?

Senator CORMANN (Western Australia—Minister for Finance) (14:06): I thank Senator Dastyari for that question. I am very happy to confirm for Senator Dastyari that the government is committed to implementing our important improvements to the Future of Financial Advice laws in full. The legislation to give effect to that election commitment was introduced in the House of Representatives last week and is continuing to progress through the usual parliamentary process, including through a Senate inquiry to be chaired by my friend and colleague Senator Bushby, the chair of the Senate Economics Legislation Committee.
What I have done, as a sign of good faith and to facilitate further consultation with key stakeholders in this particular area of public policy, is to say that we would not proceed immediately with pressing the go button on the regulations related to the legislation. I would just make the general point—

Opposition senators interjecting—

The PRESIDENT: Senator Cormann, just halt there for one moment because there is noise on my left. I need to be able to listen to the minister's answer. Minister, continue.

Senator CORMANN: The Labor Party clearly does not enjoy it when a minister actually is directly relevant in answering the question. What I would just say here, by way of broader comment, is: the reform proposals that we have put forward are a very important part of our agenda to restore the balance between ensuring appropriate levels of consumer protection while ensuring that high-quality financial advice remains affordable for everyone. Labor in government imposed too much unnecessary, costly regulation on the sector, pushing up the cost of advice for consumers in the process. Every bit of additional and unnecessary advice pushes up the cost for those people who are saving for their retirement. We should not be imposing more costs on them than is absolutely necessary.

Senator DASTYARI (New South Wales) (14:09): Mr President, I ask a supplementary question. I refer the Acting Assistant Treasurer to his statement yesterday when he informed Australians that he has decided to pause the process of rolling back Labor's reforms while remaining committed to implementing the already announced changes. Minister, are the government's retrograde changes to financial advice laws paused, or are they proceeding?

Senator CORMANN (Western Australia—Minister for Finance) (14:09): Senator Dastyari actually started quite well with his first question, and I answered it very clearly. His second question makes an erroneous assertion. The position we took to the last election was that we would improve the Future of Financial Advice laws which impose an excessive regulatory burden on consumers and on financial planners. We have said that we would maintain the best interest duty, and, indeed, strengthen the operation of the best interest duty by providing certainty for consumers and financial planners on how it operates, and we have said we would not be bringing back conflicted remuneration for financial advisers. We stand by those commitments. We will, however, cut all of the unnecessary red tape which is unnecessarily and inappropriately pushing up the cost of advice for those Australians saving for their retirement. We actually think that Australians should have access to the most affordable, high-quality advice possible. (Time expired)

Senator DASTYARI (New South Wales) (14:11): Mr President, I ask a further supplementary question. Minister, why have you had at least three positions since Friday on changes to FoFA laws?

Senator CORMANN (Western Australia—Minister for Finance) (14:11): I completely reject that assertion. We on this side of the chamber understand that this is a highly technical area of our laws, and that it is quite easy for people with political motivation, or with vested commercial interests like Labor's friends in the union-dominated industry funds, to create mischief in order to—

Opposition senators interjecting—

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

CHAMBER
Senator CORMANN: Just to make sure that Labor is absolutely clear, we remain committed to the policies we took to the last election. We are progressing those policies through legislation that was introduced in the House of Representatives last week which continues to progress through the parliament and we have paused the implementation of the regulation related to that legislation—even people on the Labor Party side of the parliament should understand some basic process issues like that.

Racial Discrimination Act 1975

Senator DI NATALE (Victoria) (14:14): My question is to the Attorney-General, Senator Brandis. Attorney, you said yesterday that people have a right to be bigots. Today you have unveiled changes to the Racial Discrimination Act which enshrine that right in law. Racial abuse and hate speech are not criminal offences under the current act and are generally dealt with via mediation. If someone is called a ‘chink’, a ‘boong’ or a ‘wog’, they can, under the current law, rightly seek mediation and an apology from the aggressor. Minister, why is this government so keen to take away this basic right and give people free rein to abuse others at will?

Senator BRANDIS (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (14:15): I should correct what seems to be a misconception on Senator Di Natale’s part. The exposure draft that I released this morning does not propose any changes at all to the machinery provisions of the Racial Discrimination Act—or of the Human Rights Act, for that matter. What the exposure draft does is honour an election promise the government made to repeal section 18C in its current form and replace it with provisions which are (a) more respectful of freedom of speech, including the freedom of speech of unreasonable and intolerant people like you, Senator Di Natale, and (b)—

Opposition senators interjecting—

The PRESIDENT: Order! Senator Di Natale is entitled to hear the answer.

Senator BRANDIS: Through you, Mr President, I say to Senator Di Natale that there are many on my side of politics who find his views intolerant and preposterous. But we would not for a moment suggest that he should not be at liberty to express them. The second thing we intend to do, Senator Di Natale, is to introduce into Commonwealth law, for the very first time ever, a prohibition on racial vilification. The mechanism that was adopted in 1995 by a previous Labor government to deal with the problem was, through section 18C, the political censorship method. That is never the way to deal with a social problem—to ban people from expressing their views. The way to deal with a social problem is to ensure that we have, as in this case, appropriately framed legislation which is respectful of freedom of speech but targets the very problem at issue.

Senator DI NATALE (Victoria) (14:17): Mr President, I ask a supplementary question. Minister, the government’s proposed changes to the act exclude any commentary in any form that is part of ‘a public discussion’. Nazi race theories would be exempt as a public discussion on eugenics. An attack on Asian Australians could be protected as a discussion on immigration policy. Racist speech against Aboriginal Australians could be shielded as a discussion on constitutional recognition. Are these unintended consequences and what good is a law that allows these sorts of hate speech?
Senator BRANDIS (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (14:18): Again, Senator Di Natale, you seem to have misunderstood the legislation entirely. The exposure draft I have circulated for community feedback is clear that there is a specific prohibition on an act 'reasonably likely to vilify another person or a group of persons'. That is new to Australian law. 'Vilify' is defined to mean 'incite hatred against a person or a group of persons'. If those are the sorts of issues you are concerned about, I wonder why it is that you are so critical of a government which, for the first time, proposes to bring a bill to this parliament to outlaw racial vilification.

Senator DI NATALE (Victoria) (14:19): Mr President, I ask a further supplementary question. Minister, you are clearly concerned about the chilling effect of anti-hate-speech laws, despite citing no real evidence that the fear of a court-ordered apology is stifling legitimate public debate. Why then should not artists have the same freedom of expression to dissociate themselves, without the threat of the loss of their funding, from a cause that might go against their own values?

Senator BRANDIS (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (14:20): As a matter of fact, Senator Di Natale, artistic freedom is explicitly protected by subsection (4) of the exposure draft. But I take it that your intended reference is to the Sydney Biennale. I might remind you that nine artists threatened to destroy the Sydney Biennale. Nine artists threatened to destroy this great Australian art event—and they were stopped. If an artist decides that they do not want to be associated with a particular event because of its association in turn with a particular commercial sponsor, that is entirely a matter for them. There is no law stopping them from choosing not to be associated with a particular event. But I am sorry to hear you using artistic freedom as a pretext to condone artists seeking to destroy a great arts event.

Racial Discrimination Act 1975

Senator RUSTON (South Australia) (14:21): My question is also to the Attorney-General, Senator Brandis. Further to the responses he has just given to Senator Di Natale, I was wondering if the Attorney-General could give the Senate a more detailed explanation of the government's plans to amend the Commonwealth Racial Discrimination Act?

Senator BRANDIS (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (14:21): Thank you very much indeed, Senator Ruston, for your question. I know this is an issue that means a lot to you. The exposure draft, which was released this morning, seeks to address two of the problems with the existing section 18C. The first problem is that, as I said a moment ago to our colleague Senator Di Natale, section 18C in its current form tries to attack racism through political censorship. Political censorship is never the right way to attack a social problem. Political censorship is certainly not the right way to attack racism. So the proposed replacement section for 18C ensures that freedom of speech, freedom of public discussion, is protected. Secondly, the proposed new section, as I said to Senator Di Natale, for the very first time in Commonwealth law creates a prohibition on racial vilification.
It does frustrate me, if I may say so, that so much of the discussion in recent months about section 18C of the Racial Discrimination Act—it was implicit in the false premise of Senator Peris's question yesterday—has been on the basis—

Senator Kim Carr: And that went well, didn't it?

Senator Wong: Let's remember who defended the bigots!

Senator BRANDIS: I defended people like you, Senator Wong: the intolerant.

The PRESIDENT: Senator Brandis, you are not to debate the issue. Address yourself through the chair.

Senator Conroy interjecting—

Senator Wong interjecting—

The PRESIDENT: Order! Senators Wong and Conroy!

Senator BRANDIS: The discussion proceeded on the false assumption that Australian law—at least the law of this parliament—did make provision for racial vilification and hate speech. In fact it did not. And even the shadow Attorney-General, who should have known better, has serially fallen into that trap. For the first time now, if these amendments are enacted, racial vilification will be specifically prohibited under Commonwealth law.

Senator RUSTON (South Australia) (14:24): Mr President, I ask a supplementary question. Could the Attorney-General please explain, further to his previous response about the greater protection against racism, exactly how the proposed changes are going to improve and strengthen protection against racism?

Senator BRANDIS (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (14:24): As I have started to explain, they will do so by introducing a prohibition on racial vilification under Commonwealth law, and that term will be defined as 'the incitement of racial hatred'. The Commonwealth law has had a gap; the Racial Discrimination Act has had a gap in lacking such a prohibition hitherto. I wonder why all of those on the Labor side and the Greens side of politics has spent all this time accusing this government of proposing to weaken the provisions of the Racial Discrimination Act when in fact, when it comes to the core question—that is, introducing a provision to deal with racial vilification and the incitement of racial hatred—we have completed the act by inserting provisions that did not exist before.

Senator RUSTON (South Australia) (14:25): Mr President, I ask a further supplementary question. In the exposure draft there is reference to whether an act is reasonable or not. Can the Attorney-General please explain what test should be applied when determining whether an act is reasonable?

Senator BRANDIS (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (14:26): Yes, I can. The test should be the test of ordinary community standards. One of the ways the old section 18C was demonstrated to be unsatisfactory was in the case of Eatock v Bolt, in which the judge interpreted section 18D—which by the way will also be repealed under our reforms—as imposing a test not of community standards but of the standard of a member of the alleged target or the alleged victim group. In that way, section 18D of the old Racial
Discrimination Act transformed an objective community standard to, as it were, a semi-subjective standard to be judged by a small and narrow group in the Australian community. We intend to restore the test of the ordinary, reasonable Australian—the community standard test.

**Future of Financial Advice**

**Senator MARK BISHOP** (Western Australia) (14:27): My question is to the acting Assistant Treasurer, Senator Cormann. I refer the minister to the collapse of Westpoint where 4,300 people, including many Western Australians, lost $310 million after receiving conflicted financial advice. Given that the government remains committed to bringing back commissions and conflicted remuneration, what will stop another Westpoint happening?

**Senator CORMANN** (Western Australia—Minister for Finance) (14:27): Thank you. Firstly I completely reject the assertion that the government is bringing back conflicted remuneration. We are not. After the collapse of Storm Financial and various other events, such as the one Senator Bishop mentions, there was a bipartisan parliamentary inquiry, colloquially referred to as the 'Ripoll inquiry'. It was a very good inquiry and indeed the recommendations that came out of that inquiry received bipartisan support. Principally, the recommendations were that there should be a fiduciary best-interest duty imposed on financial advisers, something we support; that there should be additional disclosure requirements, something we support; and that there should not be conflicted remuneration for financial advisers, something we support and something we maintain.

The mistake Labor make is that, under the cover of these sorts of events, they have tried to shove in a whole range of competition-distorting initiatives that they have long had in their bottom drawer, imposing unnecessary additional red tape, pushing up the cost of advice beyond what was appropriate to improve consumer protection arrangements. Minister Bowen and then Minister Shorten pursued a naked commercial vested-interest agenda for their friends in the union-dominated industry funds.

The truth of the matter is that when you try and fix a problem you need to make sure that whatever you do actually makes things better and not just more complex and more expensive. You need to make sure that the changes you make are proportionate and that the costs they impose are proportionate to the additional improvements they deliver. Minister Shorten cannot have been very confident of his changes, because Labor had a regulatory impact assessment requirement—a cost-benefit impact requirement—and guess what: Minister Shorten sought and received from then Prime Minister Gillard an exemption from that process, because he knew that it would fail the cost-benefit analysis that was a requirement of their own government.

**Senator MARK BISHOP** (Western Australia) (14:29): Mr President, I ask a supplementary question. It is indeed rich to talk about conflicted commercial considerations when Minister Cormann acts on behalf of four banks and one finance house.

**The PRESIDENT:** Order! Just ask the question.

**Senator MARK BISHOP:** However, Minister Cormann, won't the watering down of the best-interest test and the return of conflicted remuneration mean that under this government consumers will bear the brunt of future collapses?
Senator CORMANN (Western Australia—Minister for Finance) (14:30): I again completely reject the assertion that is at the basis of that question. We are committed to ensuring that there are appropriate levels of consumer protection, but we are balancing that with also ensuring that consumers continue to have affordable access to high-quality advice.

Honourable senators interjecting—

The PRESIDENT: Order! The discussion going across the chamber is disorderly. Senator Bishop is entitled to hear the answer that Senator Cormann is giving.

Senator CORMANN: I completely reject the assertion that Senator Bishop has made. What we are doing is restoring some balance. We are making sure that our financial advice laws facilitate the most efficient, the most transparent and the most competitive financial services system possible, where consumers can have confidence in the quality of the advice they are receiving and where consumers can get access to that advice at the most affordable price possible. That is because—guess what—the consumer interest goes beyond just the mere focus on imposing additional red tape. The consumer interest actually goes into people saving for their retirement having access to quality, affordable advice. (Time expired)

Honourable senators interjecting—

The PRESIDENT: Order! Senator Bishop is on his feet.

Senator MARK BISHOP (Western Australia) (14:31): I have a final question to the minister, Mr President. Isn't the only reason the minister is putting a freeze in place to hold off on these retrograde changes until after the results of the Western Australian Senate by-election?

Honourable senators interjecting—

The PRESIDENT: Order! I will give you the call when there is silence, Senator Cormann.

Senator CORMANN (Western Australia—Minister for Finance) (14:32): That is a ridiculous suggestion. The Labor Party are engaged in the politics of this debate and good luck to them. But as to the timing, as Senator Bishop would well know, I took responsibility for this part of government policy in the middle of last week. Having come into this new, I needed to satisfy myself about exactly what was on the table to implement our election commitments.

I can again confirm that the government is totally committed to the speedy and efficient implementation of our election commitments, but while the legislation is going through an inquiry through the Senate Standing Committees on Economics it was quite appropriate to pause the implementation of the related regulations. While that is taking place, I will conduct some further consultations with key stakeholders. That is a good process and that is what this government does. When the Senate inquiry has reported, there will be an opportunity for the chamber to have a debate on the merits of all of this. (Time expired)

Mining

Senator EGGLESTON (Western Australia) (14:33): My question is to the Minister representing the Minister for Industry, Senator Ronaldson. I refer the minister to the mining tax imposed by the previous government that is discouraging resource investment, particularly
in my home state of Western Australia. Will the minister outline to the Senate how much the mining tax has cost to administer since its inception?

_Honourable senators interjecting—_

_The PRESIDENT:_ Order! When there is silence I will proceed.

_Senator RONALDSON_ (Victoria—Minister for Veterans' Affairs, Minister Assisting the Prime Minister for the Centenary of ANZAC and Special Minister of State) (14:34): Can I thank Senator Eggleston most sincerely for that question. I note his deep and abiding interest in the mining industry in Western Australia. Indeed, I note the interest of Senators Johnston, Cash, Smith, Cormann and Back. I thank them most sincerely for their interest. As you would be aware, Mr President, at 1.58 today the dagger was put in the heart of the people of Western Australia when the abolition of the mining tax was voted down.

I thought it might be of interest to the chamber to just indicate that the Minerals Council of Australia estimates that the mining tax set-up cost to the mining industry has been well in excess of $30 million and, conservatively estimated, ongoing compliance costs are approximately $10.5 million per annum. With this set-up cost and the compliance cost added together, a tax has been imposed on the industry of at least $40 million to date.

Given the obvious economic trends in relation to the resources sector, Western Australia needs all the confidence it can get. Curiously, the Labor senators in this place have a different attitude to those members in the other place. Out of interest, last week the Labor member for Perth, Alannah MacTiernan, said of the mining tax:

_I think it would be fair to say that the mining tax hasn't done the job that it was designed to do …_

So what have we heard from Senator Sterle and, more importantly, Senator Pratt in relation to this matter? We have heard nothing but protection of the mining tax. When Alannah MacTiernan says that it has not done what it was designed to do, she is absolutely right, because it was designed to give $4 billion in year 1 and $6 billion in year 2—and it has given a maximum of $400 million. _**(Time expired)**_

_The PRESIDENT:_ I remind you to address people in the other place by their correct title.

_Senator EGGLESTON_ (Western Australia) (14:36): Mr President, I ask a supplementary question. Would the minister outline to the Senate how much of a contribution mining makes to this country?

_Senator RONALDSON_ (Victoria—Minister for Veterans' Affairs, Minister Assisting the Prime Minister for the Centenary of ANZAC and Special Minister of State) (14:36): I again thank Senator Eggleston. Mining contributes about 10 per cent of our gross domestic product, directly employs around 270,000 Australians and supports the work and incomes of another 800,000. At the very best, this mining tax has raised about $400 million. As I said before, having said it would raise $4 billion in year 1, and $6 billion in year 2—that is, about $20 per Australian—over $700 per person has been linked to expenditure over the next four years for the non-existent mining tax income.

My message to the people of Western Australia is a very clear message. There is the senator on my left, the senator on my right, candidates such as Linda Reynolds and Slade Brockman and some of the Nationals candidates I have not met, so I say to the people of Western Australia: you look at 1.58 today and you make a decision on who should or should not be re-elected. _**(Time expired)**_
Senator EGGLESTON (Western Australia) (14:38): Mr President, I have a second supplementary question. Can the minister explain how scrapping the mining tax would help industry in my home state of Western Australia and elsewhere in this country?

Senator RONALDSON (Victoria—Minister for Veterans' Affairs, Minister Assisting the Prime Minister for the Centenary of ANZAC and Special Minister of State) (14:38): Senator Eggleston wants the mining tax gone, Western Australian industry wants the mining tax gone, and the people of Western Australia voted at the last election for the mining tax to be gone. The Australian Chamber of Commerce and Industry, the Business Council of Australia and the Minerals Council of Australia pleaded for its removal. What it says is that this sector is already paying about $20 billion a year in company tax to the Commonwealth and royalties to state governments, a total of almost $117 billion since 2006-07.

The fresh Western Australian election provides an opportunity for the people of that great state of Western Australia to send a very clear message that they want this mining tax gone, a very clear message that they want the carbon tax gone. I am confident they will do so in early April when they again have the opportunity. Quite frankly, for this not to be done would be an absolute outrage.

Opposition senators interjecting—

The PRESIDENT: Order! On my left!

Community Services

Senator SIEWERT (Western Australia—Australian Greens Whip) (14:39): My question is to the Minister representing the Minister for Social Services, Senator Fifield. A large number of community organisations that deliver Commonwealth funded essential services are under service contracts or grants that are due to expire shortly and they have no idea whether these will be renewed. These organisations cover a range of essential community services including homeless services, family relationship services, family violence programs, women’s shelters, palliative care, financial and emergency counselling. Many of these organisations have staff positions that are being affected by this funding uncertainty and are losing staff already. Others do not know whether to renegotiate the lease on their premises.

There are thousands of organisations that do not know whether their doors will be open in three months time. In WA, homeless shelters have been told not to accept new clients from 31 March. My question is: is the government aware of the effect this uncertainty is having on the continuity and future provision of these services? Is the government going to end this uncertainty before these services close and staff are lost?

Senator FIFIELD (Victoria—Manager of Government Business in the Senate and Assistant Minister for Social Services) (14:40): I thank Senator Siewert for her question. I am aware that that there are a number of programs which, in the ordinary course of events, come to a conclusion at the end of this financial year. I do appreciate that this does provide a level of uncertainty for a number of organisations. This is an issue which—you are correct—is across the board through a number of programs in the Social Services portfolio. We are taking a whole-of-portfolio view at working through these programs and grants. We do hope to be in a position in the near future to provide certainty to these organisations.

Senator SIEWERT (Western Australia—Australian Greens Whip) (14:41): I thank the minister for his answer but ask: when is the government going to tell the organisations about
their funding? Will it be before these organisations have to close their doors and before they start rejecting clients on 31 March?

Senator FIFIELD (Victoria—Manager of Government Business in the Senate and Assistant Minister for Social Services) (14:41): I emphasise again that the I am aware and Minister Andrews is aware of the concerns of these organisations and of the uncertainty they are experiencing at the moment. It is a function of being a new government that comes into an environment where the budget is in deficit and where we do have significant debt that we do want to carefully and methodically work through what are the appropriate arrangements for supporting community organisations. Obviously we recognise the vitally important work that they do. We are working to provide advice in the near future to these organisations.

Senator SIEWERT (Western Australia—Australian Greens Whip) (14:42): I will repeat that question. I thank the minister for the commentary that he gave, but these organisations need certainty. Will the government tell these organisations the future of their funding before the budget so that they do not have to lay off staff? What do the government intend to do if these organisations do close? And what do they intend to do to support those people that will no longer be able to seek those services?

Senator FIFIELD (Victoria—Manager of Government Business in the Senate and Assistant Minister for Social Services) (14:43): Senator Siewert, all I can really add is that we are working to provide certainty to these organisations at the earliest possible opportunity.

Racial Discrimination Act 1975

Senator PERIS (Northern Territory) (14:43): My question is to the Attorney-General, Senator Brandis. I refer the Attorney-General to his celebration of bigotry in question time yesterday and his hastily conveyed press conference this morning. Is the Attorney-General familiar with Campbell v Kirstenfeldt, an action brought under section 18C of the Racial Discrimination Act in which the applicant had been subject to six separate acts of racial hatred language? Is the hate speech used in this case the speech that the Attorney-General wants to protect by repealing section 18C?

Senator BRANDIS (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (14:44): With all due respect, Senator, there are so many false assumptions in the question I barely know where to begin. Let me start with the last: the government was elected with a promise to repeal section 18C in its current form. The reason we decided to make that commitment and the reason we have decided to publish this exposure draft today is that we do not believe that the freedom of speech protections in the existing section 18C are sufficient and we do not believe that the protections against racism in the existing section 18C are—

Opposition senators interjecting—

The PRESIDENT: Order! I am entitled and the person asking the question is entitled to hear the answer. On my left, order!

Senator BRANDIS: Senator Peris, you must know by now—although you apparently did not know yesterday—that the Racial Discrimination Act in fact contains no prohibition against racial vilification. Some state and territory acts do—

Opposition senators interjecting—
The PRESIDENT: Senator Brandis, just resume your seat. I am going to stop you because you are entitled to be heard in silence. Senator Peris is entitled to hear the answer.

Senator BRANDIS: Senator Peris, the problem with section 18C is that it does not do either of those things properly. It does not protect freedom of speech, which is why it had to be repealed in its current form, and it does not protect people from racial vilification either. The point the government makes to you, if only you would listen, is that it is possible to do both. It is possible to have a carefully, appropriately worded provision which does address the evil of incitement to racial violence while at the same time maintains appropriate protections for public discussion. It is a shame, Senator Peris, if I may say so, that one cannot have this conversation in Australia without being accused of false motives.

Opposition senators interjecting—

The PRESIDENT: I am waiting to give Senator Peris the call.

Senator PERIS (Northern Territory) (14:47): Mr President, I ask a supplementary question. I refer to the Attorney-General's changes which have removed the good faith test for protected political speech, as recommended by the Institute of Public Affairs. I also refer to the Institute of Public Affairs welcoming the changes as 'a huge s...
The PRESIDENT: Senator Brandis, resume your seat. On my left, if you wish to debate the issue, the time is after the end of question time and not now.

Senator BRANDIS: That is why we propose to repeal those words from the Racial Discrimination Act. The very worst way of dealing with a problem of this kind is through political censorship. The worst way of dealing with a problem of this kind is to say, 'But you may not discuss this problem for fear that you might offend someone or for fear that you might insult someone.' Every day in this chamber we say things to you and you say things to us that may be offensive, but that is what public debate involves.

Senator Wong interjecting—

The PRESIDENT: Senator Wong, interjecting is disorderly.

Honourable senators interjecting—

The PRESIDENT: Order! I am not going to give Senator Bernardi the call until there is silence in the chamber. When there is silence on both sides, we will proceed.

Trade Union Movement

Senator BERNARDI (South Australia) (14:54): My question is to the Leader of the Government in the Senate and Minister for Employment, Senator Abetz. My question relates to corruption in the trade union movement.

Honourable senators interjecting—

The PRESIDENT: Order! When there is silence, we will proceed. Order, on my right and on my left! Senator Bernardi, continue.

Senator BERNARDI: Can the minister please update the Senate on what steps the government is taking to prevent future cases involving the fraudulent misuse of union members' funds?

Senator ABETZ (Tasmania—Leader of the Government in the Senate, Minister Assisting the Prime Minister for the Public Service and Minister for Employment) (14:55): I thank Senator Bernardi for his ongoing interest in seeking to clean up fraudulent misuse of union members' funds, which I would have thought those opposite would agree with. Today we were told that the five-year-old Thomson case would be dragging out even longer with today's appeal against conviction and sentence. Members of the Health Services Union are right to feel frustrated at the time taken to deliver justice in that case.

Generally I can inform the Senate that the government are adopting a two-pronged approach to stamping out corruption in the trade union movement. Firstly, we have introduced the Fair Work (Registered Organisations) Amendment Bill. We have designed that bill to give proper transparency to prevent the kinds of frauds we have seen and witnessed with alarming regularity. Indeed, according to Mr Bolano of the HSU, this is not 'one or two bad apples'. He says: 'There is a protection racket around these people. It is symptomatic of the union movement.' So let us make no bones about it: using members' funds to run re-election slush funds is just plain wrong, as it is to spend that money on elections in other unions or for the House of Representatives let alone on more nefarious purposes.

Opposition senators interjecting—
The PRESIDENT: Order! Senator Abetz, you are entitled to be heard in silence. I remind honourable senators on my left that interjections are disorderly and if this keeps up we may need to take other steps.

Senator ABETZ: It is no wonder that those opposite, most of whom being former trade union officials, are interjecting as they are. Their slogan for the trade union movement was 'Your rights at work'. Do you know what their real slogan is? It is 'Our rorts at work'. That is what Labor are trying to—

Senator Cameron interjecting—

The PRESIDENT: Order, Senator Cameron! If people want me to stand and start issuing warnings, I will.

Senator ABETZ: Those opposite are most anxious to ensure that their rorts at work can continue. We, as a government, believe that they should not be allowed to. That is what the public thinks, that is what union members think, but regrettably Mr Shorten and the Labor Party in this place do not believe so. (Time expired)

Senator BERNARDI (South Australia) (14:58): Mr President, I ask a supplementary question. Is the minister aware of any impediments to the government's policy of stamping out union corruption?

Senator ABETZ (Tasmania—Leader of the Government in the Senate, Minister Assisting the Prime Minister for the Public Service and Minister for Employment) (14:58): If Senator Bernardi were to cast his gaze directly opposite in the chamber, he would find the exact reason for the delays in being able to stamp out union corruption. Labor and the Greens are opposing our Fair Work (Registered Organisations) Amendment Bill. They have learnt nothing from the Craig Thomson affair. Clearly, they believe it is okay for union members' funds to be spent on prostitutes and living a life of luxury. Labor need to explain why one standard should apply to a company boss who is ripping off shareholders and another much lower standard should apply to a union boss ripping off members. The government's policy is simple: same crime, same time. It seems that Mr Shorten sees his role as an upmarket trade union official rather than a national leader who needs to take into account the national interest.

Senator BERNARDI (South Australia) (14:59): Mr President, I ask a further supplementary question. Can the minister inform the Senate what support has been offered for the government's two-pronged approach to stamp out corruption in the trade union movement?

Senator ABETZ (Tasmania—Leader of the Government in the Senate, Minister Assisting the Prime Minister for the Public Service and Minister for Employment) (14:59): I can inform Senator Bernardi that there is a bevy of support, including from some of the reformed characters from the Labor Party—for example, the former Labor Attorney-General, Rob McClelland, and a current Fair Work Commission commissioner and former Secretary of the Australian Workers Union, Ian Cambridge. Paul Howes of the Australian Workers Union said about our registered organisations legislation:

I have no issue with the Coalition policy.

Mr Shorten said:

There should be zero tolerance of any criminal activity …
It is a pity he cannot bring himself to say that in this place and vote accordingly. Then we had
Mr Purvinas from the Australian Licensed Aircraft Engineers Association speaking about the
royal commission:
I think the union movement should embrace this royal commission …
Commissioner Cambridge said:
… I have steadfastly maintained my firm view since 1996 that a royal commission into this should
occur.
The only people standing in the way are the Labor Party and the Greens in this place. *(Time
expired)*

**Food Labelling**

**Senator FURNER** (Queensland) (15:00): My question is to the Assistant Minister for
Health, Senator Nash. I refer the minister to the coalition's election commitment to introduce
country of origin labelling for seafood sold in restaurants as a matter of priority. Can the
minister explain how this election commitment is being implemented?

**Senator NASH** (New South Wales—Deputy Leader of The Nationals in the Senate and
Assistant Minister for Health) (15:01): I thank the senator for his question. Certainly the issue
of country of origin labelling is one that is raised with me on many occasions, particularly
across rural and regional communities. I am very well aware of the issue when it comes to
country of origin labelling of seafood. Nobody who has been involved with the Senate rural
affairs committee with Senator Bill Heffernan would be unaware of that particular issue. The
government is working through that at the moment. Our priority is to ensure that, when it
comes to labelling, we will have a process in place to make sure that that is being addressed.

**Senator FURNER** (Queensland) (15:01): Mr President, I ask a supplementary question.
When will the first fish labelled under Senator Boswell's policy be plated and served? It is a
shame he is not in the chamber to assist you in answering this question.

**Senator NASH** (New South Wales—Deputy Leader of The Nationals in the Senate and
Assistant Minister for Health) (15:02): I again thank the senator for his question. I will take
the details of the exact timing of that on notice. But I can assure senators that the government
is going to adhere to all our election commitments. The people across this country are well
aware that we will adhere to our election commitments, unlike those on the other side who, in
the previous government, did not adhere to their election commitments. Indeed, we only need
to look at the phrase 'there will be no carbon tax under a government I lead' to know that it is
this government that is going to adhere to election commitments. Those on the other side
should ensure that we do adhere to the election commitment of this government to repeal the
carbon tax.

**Senator FURNER** (Queensland) (15:03): Mr President, I ask a further supplementary
question. I refer to the Prime Minister's statement:
We are a government that will keep its commitments in full.
Will the government keep its commitment on seafood labelling in restaurants?

**Senator NASH** (New South Wales—Deputy Leader of The Nationals in the Senate and
Assistant Minister for Health) (15:03): The Prime Minister did say we would be adhering to
our election commitments. I think, perhaps—
Opposition senators interjecting—

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

Senator NASH: If the senator had been listening to my previous answer, it would have been very clear that we are going to adhere to our election commitments. It is this coalition government that will be doing that, in stark contrast to those opposite when they were in government. That is a commitment that we have made.

Health

Senator SMITH (Western Australia) (15:04): My question is also to the Assistant Minister for Health, Senator Nash. Can the minister update the Senate on the GP superclinic in Cockburn, Western Australia. Have there been any delays, and has delivery of health services in my home state been affected?

Senator NASH (New South Wales—Deputy Leader of The Nationals in the Senate and Assistant Minister for Health) (15:05): I can inform the chamber that the $6.5 million Cockburn GP Super Clinic was promised by the previous Labor government more than three years ago on 31 August 2009. It is still not open, and it is still yet to see a single patient. The first sod was turned on 25 October 2011, with a promise from the previous Labor government that it would be completed by 2013. It would be no surprise for people in this place to discover that, 2½ years later, it is still not finished.

I did a bit of research to do a bit of comparison. Senators would be interested to know that the Eiffel Tower was constructed of 18,000—

Honourable senators interjecting—

The PRESIDENT: Order! Senator Nash, I need to hear your answer. Order, those on my left!

Senator NASH: The Eiffel Tower was constructed of 18,000 separate pieces of steel which weighed more than 7,300 tonnes. It has 2.5 million rivets holding it together, all inserted by hand. It is 324 metres high, has 81 storeys and is known the world over. I do not think anybody in this chamber could disagree that it is a significant construction project. It only took two years, two months and five days to construct—less time than the Cockburn GP Super Clinic.

So the history of ill-thought-through policy on the run from this government continues. The previous Labor government were unable to deliver for the people in this nation. It is this coalition government that will deliver health services to people across the nation where they are needed.

Senator SMITH (Western Australia) (15:07): Mr President, I ask a supplementary question. Can the minister update the Senate on the status of other Western Australian GP superclinics?

Senator NASH (New South Wales—Deputy Leader of The Nationals in the Senate and Assistant Minister for Health) (15:07): I think senators would be interested to note that the previous Labor government promised six GP superclinics across the country but delivered only one. In 2007 they promised one for Wanneroo. In 2010, the previous Labor government promised it again. It is still not built. In 2010 they promised one for Rockingham. It is still not built. In 2010 they promised one
for Karratha. It is still not built. This is a success rate by the previous Labor government of 17 per cent—a fail by anybody's account. Western Australians have a clear choice. When they go to the polls they can choose between those opposite, who clearly are seemingly proud to have delivered virtually nothing for the people of this nation when it comes to health, or the Western Australian— (Time expired)

Senator SMITH (Western Australia) (15:08): Mr President, I ask a further supplementary question. Can the minister inform the Senate how many GP superclinics were previously promised across Australia and how many had actually been delivered at the time when the coalition came into government?

Senator NASH (New South Wales—Deputy Leader of The Nationals in the Senate and Assistant Minister for Health) (15:09): The previous Labor government promised 64 GP superclinics around the country at a cost of more than $650 million. Unfortunately, there was nothing super about the former government's failure to deliver on its promise. You only have to look at the Redcliffe GP superclinic, which was originally a $5 million Commonwealth commitment from those on the other side when previously in government. It took six years and blew out to $13.2 million. This was from those opposite. Senators might like to take a guess at exactly how many clinics the previous Labor government delivered. It is not 50; it is not 40. The previous Labor government managed to deliver only 33 of the 64 clinics—a lot of them in Western Australia. People in Western Australia will know that it is the National and Liberal Senate candidates who should be their choice. (Time expired)

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

QUESTIONS WITHOUT NOTICE: TAKE NOTE OF ANSWERS

Future of Financial Advice

Senator DASTYARI (New South Wales) (15:10): I move:

That the Senate take note of the answers given by the Minister for Finance (Senator Cormann) to questions without notice asked by Senators Dastyari and Bishop today relating to the regulation of financial services.

On the eve of the Western Australian by-election, the government is scrambling to find public support for Future of Financial Advice reforms that clearly favour the interests of one powerful sector over the interests of consumers. We have witnessed the government scrambling to find public support for its proposal to repeal sections of the Future of Financial Advice reforms. On the eve of the Western Australian by-election, there has been a long, loud chorus by consumer and community groups criticising the government's proposed changes. On the eve of the Western Australian by-election, this week Senator Cormann penned a long defence of the FoFA repeals in the Australian Financial Review, only to scramble backwards, in retreat, a few hours later. Senator Cormann is retreating in the face of overwhelming public concern. It has been astonishing to watch this process unfold.

It started with Senator Sinodinos's sheepish announcement of the repeals just before Christmas. There were his nervous attempts to defend his position in this chamber. His constant repetition of 'implementation and compliance costs' failed to win the support of consumers, customers and, more worryingly, the market regulator. In fact, the regulator was forced into making a very nervous admission of its own, which is that it was facing the prospect of the repeal of the very same consumer protections it had argued for.
The government's proposal to repeal these important aspects of FoFA have now descended into a huge embarrassment for the Abbott government. The Prime Minister needs to take responsibility for the astonishing manner in which this has been handled. We heard today from a senator from Western Australia, Senator Cormann, appealing to those saving for their retirement. We in the Labor Party are only too well aware of the challenges of saving for retirement. My office has been inundated with phone calls, emails, faxes and letters from people who lost a large proportion of their retirement savings to trailing fees and commissions before Labor introduced its extensive package of FoFA reforms. Through you, Mr Deputy President, I want to ensure that this is clear to Senator Cormann: these people have lost a large proportion of their principal sum—not just the profit, the interest or any annual return. They have lost a large proportion of the money which they started with and invested in good faith. Their retirement savings have been diminished by the advice of people claiming to be acting in their best interests.

I have heard Senator Cormann talking about giving consumers a choice and the benefit of robust competition. I invite the senator from Western Australia to talk to the consumers who have contacted my office to voice their concerns. Many of them were on the verge of retirement. These are the very people Senator Cormann was appealing to during question time today—people in their 50s and 60s who have also been astonished to discover that their own parents, who are in their 80s and 90s, have been fleeced by the trailing fees and commissions that were apparently in their best interests.

That is right: before Labor introduced the FoFA reforms, retirees in their twilight years were conned into paying commissions and trailing fees that were plainly not in the best interests of these consumers. It is not enough for the government to pause the process until after the Western Australian Senate election. Western Australians know only too well, as do all Australians, what happens when advice is not provided in the best interests of consumers. The actions of the government have not been good enough. 

(Time expired)

Question agreed to.

Racial Discrimination Act 1975

Mining

Health

Senator FAWCETT (South Australia) (15:16): I move:

That the Senate take note of the answers given by the Attorney-General (Senator Brandis), the Minister for Veterans' Affairs (Senator Ronaldson) and the Assistant Minister for Health (Senator Nash) to questions without notice asked today.

The question today that was directed to Senator Brandis about section 18C of the Racial Discrimination Act ignores the fact that the broad Australian community supports the principle that there should be freedom of speech. We should not be restricted in the ability to debate things that are important to the Australian community. One only has to look overseas to see what happens when a state imposes laws that impact on the freedom of speech—things such as blasphemy laws operating in some countries—and which inhibit the ability of people to express an opinion. Freedom of speech is the absolute underpinning of a civil society—of a secular, plural democracy—which is what Australia seeks to be.
The principle that the coalition also believes, though, is that there is no place for racism or for vilifying people upon that basis. We also contend that there needs to be a balance. The balance is currently not correct. The process that the coalition has adopted is sound. We recognise that there are a large number of stakeholders in this debate and we see that, even within the Human Rights Commission, the Race Discrimination Commissioner has opposed it, the Human Rights Commissioner has supported it and the President of the Commission, Professor Gillian Triggs, has acknowledged that there is a need for change.

So the process this coalition government has put in place, with the release of the exposure draft today, is a sound process. I welcome the ability of Australians to debate these issues without being labelled racist or anything else. I welcome the ability to have a civil conversation and put this issue on the table.

I move to the answers by Senator Ronaldson about the mining tax. There has been a lot of discussion here about why the mining tax should be abolished. There have been comments by senators opposite about how good this tax is. They say that it has not really affected things. I point to the Australian Institute of Geoscientists, who have identified that there is a rising unemployment level among people who support the development of mines and exploration by the mining industry because of a downturn of investment in mining exploration in Western Australia.

That contrasts significantly with the actions of this government, which has brought in the Exploration Development Initiative. That EDI is specifically designed to provide incentives for people to invest in the exploration of new mining leases to stimulate investment in the mining sector, which would lead to a flow-through in jobs in all kinds of sectors. It is an example of the kind of quality investment and incentive that this government tries to bring, as opposed to the taxing of success. We seek to create success, as opposed to tax success.

The mining tax has not been particularly successful in the revenue it has raised. Perhaps that is not surprising when we look at some of the revelations recently about the actions of the previous government. In terms of the pink batts scheme, the government received advice that it would be foolish to roll it out in the time frame that it wanted. Yet they did it, and we saw the devastating unintended consequences of that. There was a description recently of the National Disability Insurance Scheme. That scheme had bipartisan support but it was rushed through without due diligence. The independent inquiry described it, in their report, as an aircraft yet to be completed but which had already taken off. Unintended consequences are why this mining tax has resulted in more expense than revenue raised. That is why this government, in things like access to Woomera, is making sure that we do due diligence and do the regulation impact statements—to make sure that the legislation we bring forward will be effective and not have unintended consequences.

Lastly, I go to the issue of superclinics. I note that Senator Nash talked about the national level and about Western Australia. South Australia has a classic example. In Modbury there is a superclinic that was opened at a cost of $25 million of taxpayers' money. It was opened right next door to existing doctors' clinics, which explains partly why the clinic opened with no doctors. Not only did they spend the money but they had no doctors to deliver the services. They finally got a contractor to deliver the services but—guess what?—by 2012 that contractor had walked out too. So, yet again, we had a white elephant—a big lemon—in a $25
million building built by the opposition, when they were in government, but which did not deliver any services. It was in ill-thought-through policy.

Question agreed to.

**Future of Financial Advice**

**Senator STERLE** (Western Australia) (15:22): I move:

That the Senate take further note of the answers given by the Minister for Finance (Senator Cormann) to questions without notice asked by Senators Dastyari and Bishop today relating to the regulation of financial services.

There is a cunning plan going on on that side of the chamber. You can obviously see it. The trend of the week has been all about Western Australia because we happen to have a Western Australian Senate election. Mr Deputy President, I have to raise your attention to this: I do not see one Western Australian senator. There is one from Tassie, one from the ACT, one from Victoria—no, there is not one Western Australian senator who had the guts to stay in here and have the discussion. I want to go to the questions to Senator Cormann, but I cannot allow Senator Fawcett to escape with that ridiculous lead-in he gave me about how many doctors are employed somewhere in a GP superclinic in South Australia. We have a hospital in Perth—for all you West Aussies out there—called the Fiona Stanley Hospital. It is a well-known, brand-new, magnificent facility announced by—

**Senator Seselja:** Mr Deputy President, I rise on a point of order going to relevance. Senator Sterle moved to take note of Senator Cormann’s answers, which I believe were in relation to FoFA. I would ask that you direct him to be relevant.

**The DEPUTY PRESIDENT:** Thank you, Senator Seselja. I draw Senator Sterle’s attention to the motion that he has moved. We have always allowed a little bit of latitude in the debate, but not that much latitude.

**Senator STERLE:** Mr Deputy President, it has to be known that there are so many mistruths coming from that side of the chamber. None of you have got the guts to stand here and talk about FoFA, but I will talk about FoFA. What a pathetic effort to defend this one.

I want to read some interesting comments about the FoFA changes and the backflip from that side—the two-faced attitude from certain ministers. I go to today’s *Australian Financial Review*. I quote Chanticleer, who said:

Sinodinos bungled the financial advice reforms by putting too much emphasis on cutting red tape and too little on what it would mean for consumers.

I go to another interesting comment in today’s media from none other than Phillip Coorey, a very highly regarded journalist with the *Australian Financial Review*. He said:

It is too early to describe the FoFA freeze as a backdown but it could end up that way. Finance Minister Mathias Cormann says he intends to legislate for the policy as promised before the election, just that it would be better to have all the interest groups in agreement first—

Der! He continues:

Cormann, who designed the FoFA changes in opposition, is hardly signalling a rousing endorsement of stood-aside assistant treasurer Arthur Sinodinos.

You are pathetic, you lot.
Senator Fifield: Mr Deputy President, I rise on a point of order. I am wondering how Hansard records 'der'.

The DEPUTY PRESIDENT: There is no point of order. I am sure Hansard can cope.

Senator STERLE: I am quoting. I am quoting Phillip Coorey. I just want to remind that lot over there: allegedly, it is Minister Cormann who designed the FoFA. It is Minister Cormann who stood here today and said he is new to the issue and so he could not answer the questions. Someone is not telling the full truth. I want to finish the quote for that lot over there. I quote Mr Coorey, who said:

By Cormann's own admission, the stakeholders are largely opposed to what the government is proposing—

There is another 'der'! He continues:

He believes this to be more the product of misunderstanding and sloppy reporting than anything the government has done.

Here is a cracker. I would be very interested to hear the response from some of those over there. This is another quote from the Australian Financial Review today. Sally Patten reports:

Commonwealth Bank of Australia revealed in September last year that it had stopped putting in place systems that would have enabled its advisers to sign fresh contracts with clients every two years, a measure Senator Cormann has been keen to drop. The government may also come under pressure to either obtain industry consensus …

Well, well, well. Let's go to one more thing. I really would love 20 minutes on this, but I know I do not have 20 minutes, which is sad. I was wondering: why would this government do a massive backflip?

Senator Edwards interjecting—

Senator STERLE: Is it because there is an election in WA? I reckon that has a heck of a lot to do with it. I will tell you another thing. Listen to this, Big Ears. Sorry, I take that back, Mr Deputy President. That is unparliamentary but it is the nicest thing I could think of looking at Senator Edwards. On the AEC website there is a $20,000 donation to the Liberal Party from the Financial Services Council, and who heads up that? None other than Mr John Brogden, a former Liberal Premier. The Financial Services Council represents Australia's retail and wholesale funds. Well, well, well. The minister said he is new; the minister said he knew nothing about it. He was up to his neck in it, in my humble opinion. He knew all about that. This is all about saying to donors to the Liberal Party, 'Wait until the Western Australian election. We'll look after it once that's come and gone.' (Time expired)
The DEPUTY PRESIDENT: Senator Sterle, I am sure you would be happy that your motion has the words 'further take note of the answers of Senator Cormann'. That is how the motion will be recorded.

Senator TILLEM (Victoria) (15:29): I rise to take note of Senator Cormann's responses to Senator Dastyari and Senator Bishop's question on the proposed FoFA legislation. When delivering his second reading speech on the former government's FoFA legislation in 2012, Senator Cormann said: 'In pursuing regulatory change the parliament must focus on making things better.' We on this side of the house are committed to making things better for the consumer, but those opposite are hell-bent on making things better for the bankers. I am told that there are several bankers on the benches on the other side—but bankers also are entitled to have a say, especially the merchant variety. The backflip and the decision to put FoFA on the backburner is underpinned by the fact that, when it comes to the proposed legislation, it is only the bankers who support it. Everyone else—whether it is the super funds, the consumer groups or the economists—supports the existing FoFA legislation that was enacted by the former government.

The desire by those on the other side to move to opt-in requirements for financial advisers has been defended under the ruse of reducing red tape. That argument is nonsense. It is clearly not that difficult for advisers to obtain written consent from their clients every two years to permit further charging of fees for ongoing services. The measure is designed to prevent the robing of unwitting customers at the hands of exploitative Jordan Belfort types within the financial services industry. Without this legislation financial advisers who are so inclined could potentially continue to charge fees to clients without them ever knowing it. This provision ensures that there is a necessary added layer of disclosure between advisers and their clients, a vital measure for making an often esoteric industry less opaque to ordinary people seeking often complicated financial advice.

In the government's outline of proposed changes to the FoFA legislation they argue that requiring advisers to provide annual fee disclosure statements to their clients existing before 1 July 2013 is overly burdensome. What this means is that, if the Liberals get their way, clients who already had ongoing arrangements with financial advisers prior to 1 July 2013 will no longer be afforded the same level of protection as new customers. To discriminate between the two is patently absurd. It is a completely arbitrary policy decision that discriminates between clients of financial advisers for no reason other than to assist the feathering of the nests of the Liberals' mates in the financial services industry.

Related to this are the coalition's proposed changes to grandfathering arrangements in the industry which will permit advisers to move between licensees and still retain their existing grandfathering arrangements. In other words, advisers who move firms will remain exempt from many of the provisions introduced by the former Labor government. This is perhaps the most concerning of all the coalition's policies in that it will negate by stealth a range of provisions in place to protect consumers from self-serving and potentially harmful financial advice. What is the point of having these FoFA protections in place if the Liberal Party are determined to make them so easy to circumvent? The Liberal Party have decided to make extensive changes to conflicted remuneration provisions, and the best-interest duty should be the guiding principle for all financial advisers. Under the proposals by Senator Sinodinos, who is now dealing with his own bottom-of-the-harbour problems—no pun intended—
Minister Cormann is now responsible for the best-interest proposal that will no longer apply to one-off advice—

Senator Fifield: Mr Deputy President, on a point of order: it is not appropriate to reflect on a senator. I am certain that Senator Tillem did not intend to do so. He may withdraw.

The DEPUTY PRESIDENT: Senator Tillem has withdrawn. Senator Tillem, you have the call.

Senator Tillem: The best-interest proposal will no longer apply to one-off advice between financial advisers and their clients. This will mean unscrupulous financial advisers can now make their one-off dodgy sales pitch to a client and sign them up to an investment that is certainly not in their best interests. (Time expired)

Question agreed to.

Future of Financial Advice

Racial Discrimination Act 1975

Senator SESELJA (Australian Capital Territory) (15:35): I move:

That the Senate take further note of the answers given by the Minister for Finance (Senator Cormann) and the Attorney-General (Senator Brandis) to questions without notice asked today.

I will start with Senator Cormann's answers and respond to some of the assertions made, particularly by Senator Sterle and others. Senator Sterle was trying to claim a conflict of interest by the Liberal Party because of some donations. This is coming from the Labor Party, where, if you are a union, you buy a seat at the table and you buy influence through the amount that you contribute to the Labor Party! When the Labor Party have the buying of influence entrenched within their system it is absolutely ridiculous for Senator Sterle to lecture the Liberal Party. I do not think Senator Tillem, Senator Dastyari or Senator Sterle have read the changes or are aware of what they are, because the ignorance was evident in all of their presentations. I might very briefly go through what—

Senator O'Neill: Mr Deputy President, on a point of order: the senator should withdraw. That is incorrect.

The DEPUTY PRESIDENT: That is a debating point. There is no point of order.

Senator SESELJA: In fact, it is not incorrect. It is ignorant. I will go through why it is ignorant. The Labor Party is trying to make out that all of the protections in FoFA are being abolished. That is simply not true. We are seeing amendments to FoFA which would improve the situation and which would maintain consumer protections, whilst ensuring that we do not have the kinds of costs—the $200 million of additional costs—that we believe are not needed.

So let us go through what the legislation actually does rather than what the Labor Party is pretending it actually does. It reduces compliance costs for small businesses to the tune of about $198.4 million, while maintaining the quality of advice for consumers who access it. It removes requirements to obtain the client's approval every two years for ongoing fee arrangements, the opt-in requirement. That is reasonable. People can opt out at any time, but they should not be forced to continually opt in. That comes with costs.
Unlike the Labor Party, we do not believe consumers are stupid. We believe they take an interest in their financial affairs. They can opt out at any time, they should get disclosure and there should be a requirement to act in their best interests. And do you know what? There will still be a requirement to act in their best interests, contrary to what the Labor Party are saying.

Senator O'Neill interjecting—

Senator SESELJA: Again, Senator O'Neill is shaking her head and saying that it is not true. If you are going to come into this place and say that, you will have to withdraw for misleading, because it does not get rid of that requirement. All it does is remove some of the uncertainty contained in the very poor and open-ended drafting that is there at the moment. Those are the simple changes.

Another change that the Labor Party complain about is in relation to the limited exemption from the ban on conflicted remuneration. Why do they object to this? Perhaps it is because it would provide some sort of a level playing field with the industry super funds where intra-industry advice is allowed. They are happy for their mates in the industry super funds to be able to do it but not in other areas. That is at the heart of the Labor Party's criticisms and, contrary to what Senator O'Neill and Senator Dastyari are saying, it is simply not true. Those protections are not being taken away. That is why it is important that we see this kind of reform.

In the brief time I have left, I want to touch on Senator Brandis's answers. I commend Senator Brandis for the process of consultation he is going through on the repeal of section 18C and its replacement with improvements. I do not have time to go into detail in the minute I have left. But let us not pretend that we can have legislation that bans everything that is offensive to us. I do not believe that that works. I have had my share over the years of disgraceful commentary about the cultural background of my parents in particular. That kind of stuff hurts. No-one would argue that it does not hurt. But what we are arguing about today is whether we can ban everything that hurts—

Senator Wong: No, we're not. It is just misleading; it is on the basis of race.

Senator SESELJA: no—and everything that is offensive. For the first time today, we do have vilification actually being banned. That is a good thing and that has never occurred. But we should not have the kind of discussion that has been stifled in the Bolt case being banned. It should not be. Yes, our feelings get hurt from time to time. We do not like it when it happens; I do not like it when it happens. But we cannot have a law to protect against every piece of offensive behaviour in our community. (Time expired)

Question agreed to.

Community Services

Senator SIEWERT (Western Australia—Australian Greens Whip) (15:41): I move:

That the Senate take note of the answer given by the Assistant Minister for Social Services (Senator Fifield) to a question without notice asked by Senator Siewert today relating to the provision of community services.

Unfortunately, the minister did not provide any certainty to the hundreds of organisations that are facing uncertainty over the future of their funding and therefore the services they provide. They provide support and services to hundreds of thousands of Australians. Currently, they do not know whether they have funding and whether they will in fact have to close their doors at
the end of June. Many of these organisations have funding commitments, in particular, to staff. I have been told that a number of them have to make a decision by 1 May on whether they will have to put off staff. Unfortunately, they are also in the unenviable situation where staff can see the writing on the wall, because they are concerned about the uncertainty of the future, and are actually leaving. So here we have services that are losing staff. Many of the homeless services, for example, in Western Australia have been told they are not to take on new clients from 31 March. You can already see that this funding uncertainty is having an impact on vulnerable Australians, the people who can least afford this sort of uncertainty and who will suffer the most from uncertainty over these funding decisions.

We are talking about programs such as financial counselling and emergency relief; the Family Relationships Services Program; the National Partnership Agreement on Homelessness; Link-Up services; and Youth Connections, although that will last a bit longer. Youth Connections, for example, provide support to 30,000 young people, aged between 15 and 19. They specifically provide, maintain and renew young people's engagement in work, education and training. Again, that is absolutely essential. Family violence programs, particularly under the homelessness partnership agreement, provide services that help, as the name suggests, to address domestic violence. Programs such as A Place Called Home provide support for Indigenous women and children. Extended after-hours telephone support and strengthening risk management and specific case management for men, children and particularly women affected by domestic violence are all absolutely essential services that are provided by community organisations that already run on the smell of an oily rag.

It is completely unsatisfactory for this government to not be providing an indication to these organisations that they will have ongoing funding so that they can continue to provide these essential services. Questions have to be asked: what will happen to these vulnerable Australians if these services are not provided? How are these organisations supposed to manage their affairs? What are the transitional arrangements the government has in mind if these organisations are not in fact supplied with this funding?

Examples have been given to me of organisations being unable to renew the lease for their premises. So you could well find that these organisations have no premises if and when the government decides it is going to be providing services.

The Prime Minister was in Western Australia a couple of weeks ago and said they would look after the homelessness services. I am afraid that you cannot take that statement to the bank. These homelessness services will not be able to support clients after the end of March and will be losing their staff. What are the government's intentions? If they are not intending to fund these organisations, how do they intend to support the most vulnerable Australians? Take the area of financial counselling and emergency relief as an example. We know that single mothers have been forced onto Newstart and into living in poverty. As a result, the statistics are showing that the number of people needing emergency relief and financial counselling has significantly increased and that it continues to grow. These are the people who will no longer have access to these vital services.

The government need to commit immediately to telling these organisations whether they will get ongoing funding and what the amount of that ongoing funding will be. They need to start those negotiations. Many of these organisations have not had any indication of when the government intend engaging in discussions about ongoing funding and about the nature of
their programs. Tell these organisations. For my home state of Western Australia, tell them before 5 April so they know what is going on. *(Time expired)*

Question agreed to.

**NOTICES**

**Presentation**

**Senators Di Natale and Brown** to move:

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

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

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

**Senator Fawcett** to move:

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

**Senator Lundy** to move:

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

**Senator McKenzie** to move:

That the Senate—

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

Senator Rhiannon to move:

That the Senate—

(a) notes that:

(i) a controversial development application on Commonwealth heritage land at Sydney Harbour’s Middle Head is currently being assessed by the Sydney Harbour Federation Trust,
(ii) Middle Head is the land of the Ku-Ring-Gai people and provides habitat for a wide range of native species,
(iii) the development application is unanimously opposed by the National Trust NSW and Mosman Council,
(iv) the Sydney Harbour Federation Trust has two more development sites in the Headland Park which are being marketed by NSW Trade and Investment in China,
(v) under federal heritage laws the proposed development in the Headland Park requires the approval of the Minister for the Environment, Mr Hunt, under the Environment Protection and Biodiversity Conservation Act 1999, and
(vi) the proposed development is in a bushfire prone area; and

(b) calls on:

(i) the Minister for the Environment and the Sydney Harbour Federation Trust to not approve the proposed development application and to not accept any new or amended application for development on the Ten Terminal site,
(ii) the Government to properly fund the Sydney Harbour Federation Trust so that it can fulfil its duties under the Act to preserve, conserve and interpret the heritage values of all Sydney Harbour Trust lands, and
(iii) the Sydney Harbour Federation Trust to fully consult with the public and the local community on:

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

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

Senator Milne to move:

That the Senate—

(a) notes:

(i) on 15 December 2012, prominent community development and youth education leader Mr Sombath Somphone disappeared in Vientiane, Laos, and
(ii) his whereabouts remain unknown, and statements by the Laotian Government on this case have failed to address concerns of the international community, including those raised by the European Parliament, Amnesty International and successive Secretaries of State in the United States;
(b) expresses deep concern regarding the disappearance, safety and wellbeing of Mr Somphone; and
(c) calls on the Laotian Government to undertake an immediate and credible investigation of Mr Somphone’s disappearance, and willingly cooperate with the international community, including the United Nations Working Group on Enforced or Involuntary Disappearances.
Senator Hanson-Young to move:

That all video recordings, audio recordings and photographs taken during the interception and turn-back of an asylum seeker vessel named the Riski, that occurred between 1 January and 6 January 2014, be provided no later than 4 pm on Wednesday 2 April, 2014, by the Minister representing the Minister for Immigration and Border Protection to the President under standing order 166(2) for presentation to the Senate.

Senator Siewert to move:

That the Senate—

(a) acknowledges:

(i) there are people with a cognitive impairment all around the country being held in indefinite detention without trial or conviction,

(ii) that it is unacceptable for people to be held in custody indefinitely without conviction,

(iii) that, as of June 2013, there were 37 people being held without conviction in Western Australia, and

(iv) an overwhelming number of people being held indefinitely who have a cognitive impairment are Aboriginal and Torres Strait Islanders;

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

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

BUSINESS

Leave of Absence

Senator Kroger (Victoria—Chief Government Whip) (15:46): by leave—I move:

That Senator Cash be granted leave of absence for today and for the period 26 and 27 March 2014, on account of ministerial business.

Question agreed to.

COMMITTEES

Economics Legislation Committee

Reporting Date

Senator Kroger (Victoria—Chief Government Whip) (15:46): At the request of Senator Bushby, I move:

That the time for the presentation of the report of the Economics Legislation Committee on the Reserve Bank Amendment (Australian Reconstruction and Development Board) Bill 2013 be extended to 25 June 2014.

Question agreed to.

Legal and Constitutional Affairs Legislation Committee

Reporting Date

Senator Kroger (Victoria—Chief Government Whip) (15:47): At the request of Senator Macdonald, I move:
That the time for the presentation of the report of the Legal and Constitutional Affairs Legislation Committee on the Criminal Code Amendment (Misrepresentation of Age to a Minor) Bill 2013 be extended to 29 May 2014.
Question agreed to.

**Public Accounts and Audit Committee**

**Meeting**

**Senator KROGER** (Victoria—Chief Government Whip) (15:48): I move:
That the Joint Committee of Public Accounts and Audit be authorised to hold a private briefing during the sitting of the Senate on Thursday, 15 May 2014, from 10.30 am.
Question agreed to.

**BILLS**

**Save Our Sharks Bill 2014**

**First Reading**

**Senator SIEWERT** (Western Australia—Australian Greens Whip) (15:48): I move:
That the following bill be introduced: A Bill for an Act to stop the Environment Minister exempting shark drum lines from the *Environment Protection and Biodiversity Conservation Act 1999*, and for related purposes.
Question agreed to.

**Senator SIEWERT:** I present the bill and 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 SIEWERT** (Western Australia—Australian Greens Whip) (15:49): I move:
That this bill be now read a second time.

I seek leave to table an explanatory memorandum relating to the bill.
Leave granted.

**Senator SIEWERT:** I table the explanatory memorandum and I seek leave to have the second reading speech incorporated in *Hansard*.
Leave granted.

*The speech read as follows—*

The recent decision by Minister Hunt to exempt the Western Australian shark cull from federal environment protection laws, in the "national interest", is an outrageous abuse of the Environment Protection and Biodiversity Conservation Act.

The Western Australian Government's controversial policy to catch and kill sharks to apparently protect public safety and tourism is recklessly cruel and needlessly destructive.

Section 158 of the Environment Protection and Biodiversity Conservation Act is generally used for the purposes of defence, security or a national emergency. It is outrageous that Minister Hunt, with the support of the Prime Minister, is abusing this provision and making a loophole of a section that is there for genuine national emergencies.
In the past section 158 has been used to respond appropriately to devastating natural disasters: floods and bush fires, or as a response to human made disasters like the Montara oil spill. It has also been used to protect endangered species - like the Christmas Island bat emergency breeding program.

It is unconscionable to use this exemption provision to kill vulnerable and protected species. Section 158 in the past has been used in the interests of protecting endangered species and the environment or for emergencies where there was a risk to endangered species rather than an intent to kill them.

If the Minister for the Environment is failing in his duty to uphold the intent of the Act, then it is up to Parliament to hold the Government to account, and ensure that this exemption, and any similar exemption into the future, is not permitted.

The Save Our Sharks Bill seeks to void the Ministerial exemption granted on 10 January 2014 in relation to the 72 baited drum lines in Western Australia, and ensure that no similar declaration or exemption will have any effect.

To date the drum lines have caught 104 sharks, including 101 tiger sharks. 40 of these were either dead or have been destroyed, with 30 sharks caught over 3 metres. We do not know how many have died on release but anecdotal evidence suggests that many don't survive.

In less than two months at least two mako sharks – which are protected under the EPBC Act as a migratory species – have been killed by the drum lines.

The Government's program was supposedly targeted at 3 species of shark, with the focus largely being the great white shark. However, as acknowledged by the WA EPA, great white sharks are predominantly in Western Australian waters in September to December. It is not surprising therefore that the drum lines haven't caught a great white shark. They have however caught a lot of tiger sharks. Tiger sharks have been involved in very few attacks and none in recent history. This highlights the fact that this program was a knee-jerk public relations measure, not an emergency response in the national interest.

Having approved the WA Government's program and accepted the "conditions" the WA Government has set, the Federal Government has not enforced the conditions or in fact even monitored implementation.

Despite Minister Hunt announcing that he has requested a "full environmental assessment" of WA's mitigation strategy before deciding whether or not to extend the culling beyond 30 April, the damage that has already been caused by this senseless policy cannot be undone. What is needed is a foolproof guarantee that no similar exemption will be granted into the future and recognition that the intent of this failed policy was completely flawed and ignored all scientific research and alternative approaches.

Our oceans are under increasing pressures from a diverse and complex set of threats. We need a Minister FOR the Environment not a Minister AGAINST the Environment. We need a Minister that will protect our marine life, not circumvent the very legislation that is meant to protect it.

I commend this Bill to the Senate.

Senator SIEWERT: I seek leave to continue my remarks later.

Leave granted; debate adjourned.

COMMITTEES

Environment and Communications References Committee

Reference

Senator WATERS (Queensland) (15:51): I move:

That the following matter be referred to the Environment and Communications References Committee for inquiry and report by 25 June 2014:
The adequacy of the Australian and Queensland Governments' efforts to stop the rapid decline of the Great Barrier Reef, including but not limited to:

(a) management of the impacts of industrialisation of the reef coastline, including dredging, offshore dumping, and industrial shipping, in particular, but not limited to, current and proposed development in the following regions or locations:
   (i) Gladstone Harbour and Curtis Island,
   (ii) Abbot Point,
   (iii) Fitzroy Delta, and
   (iv) Cape Melville and Bathurst Bay;
(b) management of the impacts of agricultural runoff;
(c) management of non-agricultural activities within reef catchments impacting on the reef, including legacy mines, current mining activities and practices, residential and tourism developments, and industrial operations including Yabulu;
(d) ensuring the Great Barrier Reef Marine Park Authority has the independence, resourcing and capacity to act in the best interest of the long term health of the reef;
(e) the adequacy, timeliness and transparency of independent scientific work undertaken to support government decisions impacting the reef;
(f) whether government decision processes impacting the reef are consistent with the precautionary principle;
(g) whether the strategic assessments currently underway are likely to protect the reef from further decline;
(h) the identification and protection of off-limits areas on the reef coastline to help protect the health of the reef;
   (i) consistency of efforts with the World Heritage Committee's recommendations on what is required to protect the reef;
(j) the extent to which government decisions impacting the reef, including development of the strategic assessments and Reef 2050 Plan, involve genuine, open and transparent consultation with the Australian community, affected industries and relevant scientific experts, and genuine consideration of the broader community's views in final decisions; and
(k) any other related matters.


The DEPUTY PRESIDENT: Leave is granted for one minute.

Senator FIFIELD: The government does not support an inquiry into these matters. It is unwarranted and unnecessary. We all care for the reef and are custodians of it. Significant work has already been undertaken to protect and support the reef. That is why we have the Reef 2050 Plan, with the Reef Trust to provide $40 million for specific work to improve water quality along the reef. An inquiry at this time would only delay, confuse and potentially pre-empt the findings of the comprehensive strategic assessment of the Great Barrier Reef World Heritage area and adjacent coastal zone that is currently being undertaken by the Australian and Queensland governments. An inquiry of this type would also involve matters relating to the Abbot Point dredging and dredge spoil disposal project, which are the subject of judicial review proceedings in the Federal Court and before the AAT. Minister Hunt will make a well-informed consideration of the issues related to this proposed development with
the full assessment information. The previous government repeatedly put off making important environmental decisions. *(Time expired)*

Question agreed to.

**MOTIONS**

**Middle East**

**Senator MILNE** (Tasmania—Leader of the Australian Greens) (15:49): I ask that general business notice of motion No. 197, relating to Israel’s illegal settlements on the West Bank, be taken as a formal motion.

**The DEPUTY PRESIDENT:** Is there any objection to this motion being taken as formal?

**Senator WONG** (South Australia—Leader of the Opposition in the Senate) (15:51): Yes, Mr Deputy President, we object to this motion being taken as formal. I seek the indulgence of the Senate to make a short statement to explain our reasons.

**The ACTING DEPUTY PRESIDENT:** Leave is granted for two minutes.

**Senator WONG:** Thank you. Labor is denying that this motion be taken as formal because we do not believe complex and contested matters, including matters that concern foreign relations, should be dealt with in summary fashion by this chamber. It is the case that Labor leaders and managers in this place have previously drawn the attention of the chamber to our concern about dealing with complex and contested matters by way of formal motions. We previously expressed that concern both in government and in opposition. The moving of formal motions that deal with complex and contested matters compels senators to take a binary position on these matters, without debate. The giving of short periods of notice—usually one day—means that there is often little consultation before the mover is on his or her feet seeking the support of the chamber.

Whilst formal motions remain a useful mechanism for dealing with routine motions such as committee matters, the introduction of bills and Parliamentary Zone approvals, they have much less utility when employed to pursue complex matters. For that reason, today I am restating and reaffirming Labor’s long-held position that complex and contested matters should not be pursued by way of formal motions. I also flag that Labor will not support the suspension of standing orders to bring on debate on such motions, except in the most exceptional of circumstances.

Mr Deputy President, as you would be aware, the Procedure Committee is currently undertaking a review of the routine of business in the Senate, and I would encourage the committee to give careful consideration as to how the Senate should deal with motions that concern non-routine matters.

**Senator MILNE** (Tasmania—Leader of the Australian Greens) (15:54): Mr Deputy President, I seek leave to make a short statement.

**The DEPUTY PRESIDENT:** Leave is granted for two minutes.

**Senator MILNE:** Thank you. I am not going to move to suspend standing orders. I could do that in these circumstances, and take up half an hour, but I am not going to. I just want to say that I do not accept the premise that foreign affairs matters cannot be dealt with in motions. In fact, it is often the only way you can have matters deal with in a timely manner.
Only yesterday the Labor Party brought forward a motion in relation to Sri Lanka—quite appropriately, and we supported it—and the Human Rights Council is making a decision on that later this week. It is important in that context for the parliament to be able to express an opinion.

This motion relates to the Israeli occupation and illegal settlements on the West Bank. It is 2014, the United Nations Year of Solidarity with the Palestinian People. This motion was to call on the Minister for Foreign Affairs, Ms Bishop, to publicly acknowledge that all settlements are illegal and in breach of the fourth Geneva convention. She denied that when she was in Israel recently, and the claim she made was outrageous and absolutely contrary to international law.

It is important in this context to recognise that we have to continue to campaign for the Israeli government to cease the expansion of settlements in the West Bank. I want to strongly put on the record that the Greens do want this matter debated at length. Several members of parliament attended the get-together yesterday to celebrate the UN Year of Solidarity with the Palestinian People. We want to express very firmly—and we will continue to do so—that Israel's illegal settlements in the West Bank cannot be allowed to continue. We have to make a stand for fairness and justice for the Palestinian people.

I want to go back to accepting the premise that foreign affairs cannot be dealt with. We argue that they can and should be dealt with in this parliament in the manner in which we are proposing. *(Time expired)*

**Senator FIFIELD** (Victoria—Manager of Government Business in the Senate and Assistant Minister for Social Services) *(15:56)*: Mr Deputy President, I seek leave to make a short statement.

**The DEPUTY PRESIDENT:** Leave is granted for two minutes.

**Senator FIFIELD:** Thank you. It is often fraught to deal with complex foreign affairs issues by way of motions. If this motion had been taken as formal, the government would have voted against it. I will briefly outline our reasons for that.

The Australian government does strongly support the resumption of final status negotiations aimed at reaching a just and lasting two-state solution, with Israel and a Palestinian state living side by side, in peace and security, within internationally recognised borders. The question of Israeli settlements is a key point of negotiations for any resolution of the Israeli-Palestinian issue, and the Australian government will not pre-empt outcomes of ongoing final status negotiations.

Australia does stand ready to assist in any way it can to support the Middle East peace process, including through supporting Palestinian development. Australian assistance to the Palestinian territories in 2013-14 will be $55 million, focused on improving governance, rural livelihoods and the delivery of basic services to Palestinians.

**DOCUMENTS**

**Draft Labour Market Growth Rate Projections**

**Order for the Production of Documents**

**Senator McEWEN** (South Australia—Opposition Whip in the Senate) *(15:57)*: At the request of Senator Carr, I move:
That there be laid on the table by the Minister for Employment, no later than 10 am on Wednesday, 26 March 2014, the following:

(a) a copy of the email between the Minister's office and officials in the Department of Employment, as referenced in The Australian of 24 March 2014 ('Coalition urged department to "massage" jobs data');

(b) details of any subsequent communications, including emails and file notes of telephone conversations, between the department and the Minister's office regarding the department's draft labour market growth rate projections; and

(c) the alternate job forecasts produced by the department following the aforementioned correspondence with the Minister's office.

Question agreed to.

MATTERS OF PUBLIC IMPORTANCE

Future of Financial Advice

The DEPUTY PRESIDENT (15:58): A letter has been received from Senator Moore:

Pursuant to standing order 75, I propose that the following matter of public importance be submitted to the Senate for discussion:

The failure of the Abbott Government to protect the interests of consumers of financial advice.

Is the proposal supported?

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

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

Senator MARK BISHOP (Western Australia) (15:58): Tomorrow, Wednesday, 26 March, marks the fifth anniversary of one of Australia's most high-profile financial collapses. I refer of course to Storm Financial. There were other great frauds prior to that and there have been many other abuses since. Some of the names I mention—Bankwest, Commonwealth Financial Planning, Trio, Westpoint—are now well-known names that have been involved in financial scandal and financial harm to thousands, indeed tens of thousands, of Australians.

So what I am about to say is not news to anyone, but in this matter of public importance it is worth noting the significance of tomorrow’s date, because in the not too distant future we will be inquiring into legislation introduced into the House last week on the Future of Financial Advice reforms. It will go to the Senate economics committee for investigation and, either prior to June or in the second half of this year, we will discuss in this chamber momentous legislation that affects the livelihood, the savings and the retirement of millions of Australians.

The financial scandals of all of those companies that I mentioned in my introduction—Storm Financial, Bankwest, Commonwealth Financial Planning, Trio and Westpoint—were occasioned by greed, fraud, excessive reward and incentivised commission payments to salespeople and those involved for a livelihood in the sale of financial products. All of those financial scandals resulted in heartbreaking loss: the loss of millions of dollars to individual Australians, the loss of assets built up over time and the loss of houses, as well as the breaking
up of families, the displacement of children and the ruining of lives. Without exception, each of those scandals could have been prevented and was occasioned by greed and avarice on the part of thousands of individuals who gave out bad advice, unnecessary advice, improper advice and illegal advice. Innocent men and women who were seeking assistance to plan their savings, the purchase of their home, the purchase of an asset or funding to educate their children at school and university lost their life savings. All of it was avoidable and should have been avoided.

Last Friday, as the Minister for Finance and acting Assistant Treasurer advised us at question time, the Assistant Treasurer made a long overdue but still inadequate statement concerning the FoFA legislation repeal and/or amendment. I say the statement that he made last Friday or last Thursday was long overdue because this government for some time has been aware—as has been every member of parliament in this place and the other place—of the growing concern in the Australian community about the government's attempt to backdoor the introduction of commission payments for the sale of financial products. That is backdooring and making conflicted remuneration legal.

I say it was also an inadequate statement because the draft bill, plain and simple, is an election pay-off to five companies—four banks and one financial house, AMP. They are five companies so awash with surplus capital, record dividend payments to shareholders, record market share growth and generally record share prices that their naked greed in exploiting additional revenue streams amazes, surprises and indeed shocks all observers of this industry in Australia.

The opposition—the Labor Party, the party which when in government was responsible for the most breathtaking set of worthwhile financial reforms only two years ago—say upfront in this debate the following: we are opposed to conflicted remuneration and commission-based payments for general financial advice. We say upfront (a) that we are opposed to a situation where financial advisers can earn sales commission and trailing fees from product providers; (b) that, when financial advisers can also receive soft dollar inducements such as overseas education junkets, that is graft and corruption and should not be part of the deal, and we are opposed to that practice; and (c) that financial advisers will not need to tell their clients about these fees or other benefits that they gain for the sale of financial products to those consumers or clients who seek their advice, and we are opposed upfront—two years ago, now and forevermore—to those sorts of practices.

To return to my earlier introductory remarks about extra-large revenue streams for NAB, ANZ, Commonwealth Bank, Westpac Bank and AMP, we say that those new and additional revenue streams for clerks, for tellers, for salespeople, for financial planners and for financial advisers who upscale the sale of financial products without adequate disclosure to consumers or clients are a con. We disapprove of it. We do not want to participate in it.

During a Senate inquiry which has been foreshadowed into this legislation, we will pay close attention to the submissions and the evidence that we gather. On the basis of that inquiry, I will be very, very surprised if the position I foreshadowed at the outset of this discussion is not our permanent position. We are opposed in principle to the amendments sought to be introduced into the House last week and foreshadowed by Senator Cormann on Thursday or Friday of last week in this place.
If the legislation foreshadowed by Senator Cormann is introduced, is passed and becomes law, who wins? We know who the winners are. They are the four banks I named and AMP, commission-based salespeople and retailers of financial products who persuade banks to recommend to customers the sale of their particular product—by that I mean the ABC equity fund as opposed to the DEF equity fund. The people who flog those products either to the banks or to the staff of banks and AMP—who then flog those products to consumers—are the winners, and wholesalers are the same.

Who, interestingly enough, do we glean from public debate, opposes these changes foreshadowed by Senator Cormann? Firstly, National Seniors; secondly, the Council on the Ageing; thirdly, the Choice organisation on behalf of consumers; fourthly, Industry Super Australia on behalf of industry funds with membership in excess of five million Australians. Interestingly enough, there is a fifth group that has come out publicly so far and foreshadowed opposition, the Financial Planning Association. Think about that: seniors, aged people, old people, persons going into their retirement, consumers and workers—blue-collar and white-collar—who are members of industry funds. We are talking not five million, not seven million, not eight million but the best part of 10 million people in this country who, through their representative organisations or their professional associations, have voluntarily foreshadowed without equivocation total opposition to this bill introduced by Senator Cormann this week on behalf of ANZ, Bankwest, NAB, Commonwealth and AMP but on behalf of nobody else. *(Time expired)*

**Senator BUSHBY** (Tasmania—Deputy Government Whip in the Senate) (16:09): Senator Bishop, in his 10-minute speech, referred to the absolutely heartbreaking financial collapses of a number of financial advising firms and the devastating effect that undoubtedly created for the people whose money was lost. And he canvassed a number of reasons for why that happened. Indeed, the original Ripoll inquiry, as it is now known, had as its catalyst these collapses. The report of that 2009 Ripoll inquiry was in fact bipartisan. All members of the committee in that report worked together to come up with a very solid piece of work which made a number of recommendations as to how we could work in this place to minimise the risk of similar collapses occurring in the future.

But, when FoFA legislation was put forward by the previous government, it was not a particularly accurate reflection of the recommendations from the Ripoll inquiry. It went much further. As a result, rather than a bipartisan approach being available at that point, the coalition felt it needed to put in a dissenting report so that it could more accurately reflect the findings of the Ripoll inquiry, which had conducted the most thorough in-depth investigations of these issues there possibly could have been. As I mentioned, the FoFA legislation went much further.

It is my proposition that, if we can get the changes to FoFA that we are now proposing through, the FoFA legislation that would then be in place would be a much truer and more accurate reflection of the recommendations of the original Ripoll inquiry than what we currently see.

At the recent ASIC inquiry hearings for the Economics References Committee, the chair of the Australian Securities and Investment Commission, Greg Medcraft, noted that only about 20 per cent of Australians are in a position to receive or are receiving proper financial advice. In his view, at least half of Australians should be enjoying the benefit of detailed and
thorough financial advice. But there is no possibility whatsoever of achieving this aim unless the advice that is available to Australians is both accessible and affordable.

As in all regulatory matters, you need to strike the appropriate balance between imposing regulations to protect consumers and making sure they are accessible and affordable. Our contention is that the previous government's FoFA legislation did not strike that appropriate balance. On the contrary, it worked quite strongly to make financial advice that Australians need—I repeat: the advice that far more Australians need than are currently receiving it—far too expensive and less likely to be actually accessed.

I have a couple of key points. First, I want to make it clear that we are not abolishing FoFA. On the contrary, we are just fiddling at the edges, making improvements to the way that it works in line with our election commitments. As I mentioned, our election commitments are based on the coalition members' findings in the Parliamentary Joint Committee on Corporations and Financial Services inquiry into the FoFA bills and more accurately reflect the outcomes of the Ripoll inquiry.

It is important also to note that we are not abolishing the best-interest duty; we are keeping it. But what we are doing is ensuring that there is a greater certainty for both consumers and financial advisers on how the best-interest duty will operate. It is also important to note that we are reintroducing sales commissions or conflicted remuneration for financial advisers.

On conflicted remuneration and commissions, I will make a couple of points. Mr Chris Bowen said recently a number of times—and I think he said it again this morning—that balanced scorecard payments are the same as commissions. I can tell you they are not. A balanced scorecard arrangement exists where an employee receives incentive remuneration that is calculated by reference to both volume based and non-volume based factors; for example, customer satisfaction, meeting training requirements and compliance targets et cetera. Importantly, that incentive payment is only allowed where it does not conflict advice and is only a small part of the overall bonus. And that is consistent with the original legislation introduced by Mr Bill Shorten when he was financial services minister. This is what Mr Shorten said in his second reading speech on FoFA on this issue on 24 November 2011:

For the most part, advisers will not be able to receive remuneration—from product issuers or from anyone else—which could reasonably be expected to influence financial advice provided to a retail client.

If an adviser is confident that a particular stream of income does not conflict advice, then these reforms do not prevent them from receiving that income. For example, in the case of the receipt of income related to volume of product sales or investible funds, there is a presumption that that income would conflict advice. However, this is a presumption only, and if the adviser can demonstrate that the receipt of the income does not conflict advice then such remuneration will be permissible under the bill. That was from his second reading speech on 24 November 2011. It was also reflected in Bill Shorten's explanatory memorandum to his FoFA legislation. It said:

However, if it can be proved that, in the circumstances, the remuneration could not reasonably be expected to influence the choice of financial product recommended, or the financial product advice given, to retail clients … the remuneration is not conflicted and is not banned.

There was also an example of a payment under a balanced scorecard arrangement that could rebut the conflicted remuneration presumption in the explanatory memorandum.
Our proposal in this respect gives effect to that proposition contained in Mr Shorten's explanatory memorandum and second reading speech—nothing more and nothing less. The proposed provision provides business with certainty that they can continue to remunerate their employees under a balanced scorecard arrangement where that payment does not conflict with advice, as was envisaged by the original legislation and as enunciated by the then Assistant Treasurer and now Leader of the Opposition. Whilst the balanced scorecard payment provides an incentive for the employee to make more sales, it forms only a small part of the employee's total remuneration, and the employee needs to have satisfied a range of other criteria, such as customer satisfaction, to be eligible for the bonus.

Furthermore, the bonus is a one-off payment; there is no ongoing payment in relation to past sales—that is, there are no trailing commissions. By contrast, a commission is directly based on the number of products sold and no other non-volume related factors. The commission payment would in the past have been ongoing—that is, a trailing commission. Neither is the case with balanced scorecard payments.

As the acting Assistant Treasurer noted in a published editorial piece over the last few days,

Finally under Labor's FoFA legislation it was always envisaged that benefits to employees calculated on the volume of sales were permissible under a so-called balanced scorecard approach.

In a fuller version of the article, Senator Cormann wrote:

Labor in government, however, never got around to properly implementing that part of their stated intention through regulation. Consumer protections are inherent under this approach provided for under our legislation because there are clear criteria to ensure that any benefit does not directly influence advice. If, contrary to our clear expectations and our intention not to bring back conflicted remuneration of advice or for advice is providing general advice, developments in the market warrant our intervention. It could and would be addressed very quickly by relevant regulation. We don't believe it will be necessary.

In relation to the general advice exemption for employees of product advisers, this is about levelling the playing field across the financial services market after the special deals that Mr Shorten did with industry funds only.

Incentive payments for employees of product providers to provide general product advice are not conflicted remuneration. Their application is very limited: namely, to employees selling products issued or sold by licensees who have not provided any personal advice to the retail client in the last 12 months. Again, this is not intended to open the door for a return of conflicted remuneration, personal advice or advisers providing general advice; this is about restoring some competitive neutrality in the market as part of our efforts to ensure that we have the right balance between appropriate levels of consumer protection and affordable access to high-quality advice. We want consumers to continue to benefit from robust competition between both different business models and different businesses across the financial services market.

To summarise, the government continue to support the underlying goals of the FoFA reforms and we do not propose to change the vast majority of those reforms, but we do believe that the FoFA reforms went too far in imposing red tape and additional costs on business and, of course, those additional costs will be passed through to the consumer. Analysis by Treasury estimates that the government's amendments, if passed, would save the
industry an average of approximately $190 million a year with further savings of $90 million in implementation costs. Those savings will, of course, be passed on to clients and improve the affordability and access of financial advice to Australians. The government is committed to amending the FoFA legislation to reduce these costs and make financial advice more affordable to consumers and has undertaken substantial consultation on the amendments and will continue to do so in the coming months.

Senator WHISH-WILSON (Tasmania) (16:19): Sometimes working in this chamber feels a bit like The Truman Show with cameras, live broadcasting and people looking down on you. What would you make of this government and this debate today if you were a member of the public, looking in from the outside? This is a government, I would point out, which has lost the faith of the public faster than any other first-term government in the last 40 years. I will tell you what I think it looks like. If you are a powerful organisation in this country, you have money and you donate it to this government—the Liberals or National Party—they will use this place to deliver for you. If you want a return to a free-for-all system of financial commissions and a winding back of consumer protections to help your business—ignoring recent disasters and the damage done to consumers of financial services, such as the collapse of Storm Financial or the government's disastrous managed investment schemes—all you have to do is donate. And guess what? The Liberals and Nationals will deliver. If it looks obvious that backroom deals have been done on these FoFA reforms—with the industry lobbyists so favoured by this government—then why wouldn't there be special favours for other legislation in front of this parliament?

If you do not like a mining tax because it nibles at your superprofits and you donate, then the Liberals and Nationals will deliver. If you run a polluting power plant and you do not want to pay for the damage that burning fossil fuels cause to our environment and you donate, then the Liberals and Nationals will deliver. If you think the government is here to prioritise the delivery of health care or education or a future free from climate shocks, then this government is not for you. Why? I suspect there are no donations in these issues for the Liberal-National government. I have said it till I have been blue in the face: our political system is corrupted and undermined by rent-seeking special interests—vested interests—seeking to influence political decisions, regardless of the impact on the public good or public interest. Ross Gittins, one of the country's most experienced economic writers, has written several excellent articles on this subject recently.

Looking from the outside in, it is as if the executive government of Australia operates in a closed loop of special interests, lobbyists, staffers, ex-politicians, corporate rent-seekers and donations. It largely occurs in secret, undisclosed or vaguely disclosed years after the fact. The Australian public will not even know who donated to this government in the lead-up to the last federal election until February 2015.

The proposed winding back of FoFA reforms are a classic case. The previous government's proposal delivered sensible reforms to financial advice legislation to stop runaway rorts like Storm Financial, remove conflicts of interest in commissions and provide some simple consumer safeguards. Contrary to what Senator Cormann told the Senate today, there is nothing complex about understanding conflicts of interest or how they undermine consumer rights.
Speaking of conflicts of interest, this government is directly embroiled in its own conflict of interest in this debate today—explaining donations from the big end of the finance town directly to decision makers able to influence FoFA reforms. The lead proponent for the case against the previous government's FoFA reforms was the Financial Services Council. They represent many of the banks—and AMP, as mentioned earlier by Senator Bishop—that said they stood to lose from the original reforms and that they opposed them. So they naturally sought to influence the result in their members' favour. Other than submissions and direct lobbying, one way it would appear to have tried to influence the debate and the positions of the major parties is through political donations.

Over the last few years, not including the recent donations that have yet to be disclosed, the Financial Services Council donated over $42,000 to the major parties. These donations were not just general donations to the head office; they were targeted to the major relevant financial policyholders at the time in each party. The donations were: $11,000 to Joe Hockey's electorate fundraising arm; to Mr Tony Smith, the then shadow parliamentary secretary for tax reform; to Chris Bowen's local re-election fund; to the electorate of the then Assistant Treasurer David Bradbury; and $10,000 to—guess who?—Senator Cormann. These were not donations towards good public policy, as Senator Cormann would have you believe, but rather they were donations targeted and tailored towards influencing the people who had the power to make decisions about financial policy in this country—policy which could influence their members' profits. Two of the four people, Senator Cormann and Mr Smith, who authored the coalition's dissenting report into the FoFA changes, received sizeable donations from the Financial Services Council.

I encourage all members of this place and the public to read the coalition's dissenting report on FoFA reforms. Seemingly, the Financial Services Council wrote it. Their views are mentioned often enough in it. I am not saying directly that the coalition's position on FoFA is entirely due to donations; I am sure there is an unhealthy dose of free market ideology thrown into the bargain as well. But it sure looks bad to those watching us on TV. How could the public draw any other conclusion? The Greens have long been calling for greater transparency with donations and with lobbying. The public has a right to know the target of donations or lobbying efforts that seek to influence decisions on public policy.

Maybe it is not the Truman show today, rather it is groundhog day. Again, we are debating legislation brought in by this government to look after the big end of town. We have now had months of debate on the carbon bill repeals. It is legislation that is designed to prop up the big, dirty polluters and their profits that are threatened by a jobs rich, emerging, clean energy industry—all in the face of the dire need for immediate, strong and real action on climate change. And then there is the repeal bill for the tax on mining industry superprofits. Again, the Liberal-National government are looking after the big end of town, their mates and their donors, and are supporting the rent-seeking, profit-chasing obsession of the big miners, who are determined to put the tens of billions of dollars of profits they make, most of which goes overseas and does not stay in Australia, ahead of small businesses, superannuants and the broader Australian community.

And let us not forget modern trade deals, the so-called free trade deals under negotiation, and the push by the biggest, most powerful global corporations in the world to have Trojan Horse clauses added to these trade deals—the ISDS clauses or investor state dispute
settlement clauses. These give corporations legal rights to sue sovereign governments if their future legislative changes impact on their future profits. Even the Howard government would not consider the inclusion of such clauses in their trade deals. Under this government, where anything goes if you are a wealthy corporation and have influence, such dangerous clauses are on the negotiating table.

Senator Seselja: Mr Acting Deputy President Edwards, I rise on a point of order that goes to relevance. We are hearing about trade deals. That is not the matter before the Senate at the moment in this MPI.

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

Senator WHISH-WILSON: I must have hit a nerve there. And now we have this: the government's proposed changes to FoFA regulations. These changes are designed to help make more money, fee income, for the big banks and financial services companies such as AMP. As I have stated previously in this chamber, banks and financial services companies no longer make most of their income and profits from simple deposits and loans. They make the majority of their income from selling financial products and financial services. While these FoFA regulations are about protecting consumers and the reputation of the financial planning industry, who oppose these regulations, they are designed to help the profits of the big end of town.

What next, I wonder? I remind the Liberal-National Party, the government, that the public expects that the job of government is to protect the public good, not just the profits of big corporations that are determined to put the interests of shareholders ahead of the interest of the Australian public. It easy sitting in here all day listening to debate to forget the really important point that there is a world outside those doors and windows. We live in a society not in an economy. Contrary to what this government believe, they are not always the same thing. We need reform in this country. We need reform to drive clean energy transition. We need reform for a fairer tax system. We need reform to protect consumers. It takes bravery and courage to push through reform. We need legislation that strikes a better balance between the profits of the powerful and the people—consumers, Australian taxpayers and small businesses.

Senator STEPHENS (New South Wales) (16:29): I too rise to contribute to this debate this afternoon, concerned, as we on this side all are, about protecting consumer interests in relation to the farce that has become the Future of Financial Advice legislation and Senator Cormann's pause that he announced today to those regulations, which he suggested was for the purpose of more consultation. We would be very pleased if there were genuine consultation about this issue, because it simply is a fact that the proposals, as developed by former Minister Sinodinos—the draft regulations and the legislation—were issued with literally no consultation at all. They absolutely reflect, as Senator Whish-Wilson just said, the interests of the financial industry, not the consumer in any way, shape or form.

I was thinking, as I was listening to the debate, about the events around the collapse of Storm, Westpoint and Trio. I was a member of the Parliamentary Joint Committee on Corporations and Financial Services when the collapse occurred, and I was part of the investigation that that committee undertook.

Senator Williams: So was I.
Senator STEPHENS: Senator Williams, you were not here at the time.

The PRESIDENT: Through the chair, please.

Senator STEPHENS: I just wanted to make this really important point: we travelled quite significantly and time and time again we saw the extent to which the financial advisory industry was so poorly regulated. All we could do was listen with jaws dropping to stories of people who were being advised—in good faith, they thought—to do the most extraordinarily unwise things, risking their financial future. I know Senator Williams has a particular interest in this. We have shared many stories about how people in the bush have been caught in exactly the same kinds of situations. The proposals that we had to consider and the recommendations that were made out of that inquiry really reflected the horrible circumstances that were part of the evidence to the inquiry. We really felt that the government and the opposition knew that there was a need for some critical action to be taken.

I will give you just one story—perhaps I might share two. One story is of the Doyleys—Barry and Deanna Doyle—from Townsville. They were an ordinary couple in their 60s who were not particularly wealthy and not particularly sophisticated financially either. Mrs Doyle was retired. Mr Doyle was still working part time. As a result of financial advice that they never should have been given, they ended up owning a share portfolio costing over $2 million, with debts to match, on which their annual interest payments eventually rose to nearly $200,000. The Doyleys had been modestly secure before they were advised by Storm Financial. They had paid off their mortgage. They had about $600,000 in superannuation. But Storm's investment advice was to borrow against their home and use the cash to raise yet more money to invest. They increased their borrowings—or exposure to the stock market—on the advice of Storm Financial 11 times in two years and ended up not only losing their super and their share portfolio but also with a debt of over $450,000 on their previously unencumbered house and with not enough income to make the repayments. Quite frankly, their situation was that they were completely financially wiped out.

We heard story after story. There were thousands of people who, on the advice of the financial service industry, entered into high-risk transactions in which they were likely to lose their money and even their homes—and they did. I was particularly taken by a story that we heard in Wollongong from another gentleman, a very articulate but desperately angry man who had been the victim of a car accident. He had received a compensation payout which he had been advised needed to be invested wisely because this insurance payout meant he would not be eligible for any kind of Centrelink payment until he reached retirement age. He was in his late 40s at the time. With the advice of a financial adviser, he invested all his money in a particular strategy and was completely wiped out. He was, at the time we spoke to him, almost homeless, living on the charity of friends, not eligible for any kind of social security support and not eligible for any kind of compensation for the way in which the financial adviser had completely ripped him off not only through gouging of fees but also through poor investments. The total unfairness of this man's situation was enough for us, as committee members, to say, 'Something must be done.'

The things we recommended in that report which were brought into effect in the Labor government's legislation are now being systematically challenged and wound back. The idea has been raised of dumping the opt-in demand that requires financial advisers to ask their clients whether they want to continue with an investment. The removal of that opt-in
requirement would mean that they no longer need to ask the client's agreement before collecting fees automatically every year for financial advice that the clients have never sought. Any existing fee arrangements would continue to exist unless the arrangement was terminated. The opt-in requirement sounds like something being done in all fairness for transparency and good financial practice, one would have thought, but it is something that the financial services industry has resisted from the beginning and has systematically campaigned against to ensure that Senator Sinodinos was prepared to accept their advice.

The other issue is fee disclosure. The legislation that the government is now moving actually removes the requirements for advisers to disclose fees to all customers who entered into a fee arrangement before 1 July 2013, when FoFA commenced—so all existing clients can be kept in the dark. This is what the government is talking about as a reform. There is a trend that I want to flag, which I am going to come back to very shortly on this issue, and that is the influence of the financial services industry on the government's approach to the administration of charitable trusts, where we are seeing the same kind of insidious insistence that fees and charges be hidden from the clients. What happens if you are a trustee of a financial organisation, managing what is now called an orphan trust where there are no living trustees other than the trustee manager? We are seeing the same kind of approach that will hide financial charges and gouge the management of financial affairs in these kinds of financial investment mechanisms.

This issue is really about the financial industry's influence on this government. It is certainly not about protecting the interests of consumers in any way, shape or form. It will lead to pensioners and other people in their retirement years losing their savings all over again. It is poor policy, it is bad policy and it is going to leave the most vulnerable people, who are not financially literate enough to understand their superannuation, at the mercy of a gouging financial industry. It is just outrageous!

**Senator WILLIAMS** (New South Wales) (16:39): I must make some comments about Senator Whish-Wilson's contribution on this MPI. He talked about donations to political parties. I want to again put on the record that, when the former Greens leader, Senator Bob Brown, was here and there was debate on the Triabunna mill in Tasmania, he wanted reforms. He wanted changes. He wanted this done and that done. Then a short time after—I was listening to it on radio—we heard the declaration of the largest donation to any political party in Australia's history—$1.58 million. I will repeat the number: $1.58 million. It was donated to the Greens by Mr Graeme Wood, the owner of Wotif. All of sudden, the Greens were batting for the business and interests of Mr Graeme Wood. Now we hear all of the holier than thou Greens saying: 'These donations are terrible.' Come on, get off the cat's tail! This is hypocrisy at its greatest level. It was a $1.58 million donation.

I have just listened to Senator Stephens's contribution on this MPI. I was on the Parliamentary Joint Committee on Corporations and Financial Services inquiring into the Storm Financial crash. In fact, I started this job on 1 July 2008, and in January 2009, seven months later, I went to Redcliffe. I was the first politician out of the 226 politicians in Canberra who went to meet with the Storm Financial victims up there in Redcliffe in order to see what I could do to help them and to get a parliamentary inquiry into the Storm Financial crash.
Of course the Greens like tree planting. The managed investment schemes of Timbercorp and Great Southern involved buying farmland and claiming the purchase of that land off their tax. The farmer cannot do that, but those managed investment schemes could do it on the basis of planting trees. Of course Timbercorp and Great Southern went belly up—and there were other big crashes. But as far as Senator Stephens's comments go, she has missed one point: the products on the market were wrong. Storm Financial was destined to fail—full stop. People were so heavily geared, so leveraged with debt, that, once the stock market turned down, they went down. This is where it is ASIC's job to see that financial products on the market, that are out there for people to purchase, are strong, solid and viable. It is why there is an ASIC inquiry at the moment. I am pushing for ASIC to have stronger powers in order to call for a stock-loss audit so that they can phone up a financial planner and say: 'From this minute you are no longer a financial planner. You can go to the AAT—the Appeals Tribunal—and appeal our decision against you, if you wish.' That is what I want to see put in place so that, when financial planners do the wrong thing, they are simply struck off in the instant of one phone call.

I have some concerns, I admit, with any changes to FoFA, but then I had a good look at the detail of the proposed legislation. The first recommendation, which was a unanimous one by the committee which I was part of, was that the interests of the client must come first. We are simply making a small adjustment to section 961B(2) so that legal uncertainty for advisers will be removed. So 961B remains and 961J clearly states that the interests of the client will come first—and, if it does not, I want to see ASIC with the powers to just kick that financial planner straight out of business so that people get good, strong, solid advice that is in their best interests. This is exactly what we are doing.

There is the opt-in test. We received more than 400 submissions at the PJC inquiry and only one suggested the opt-in test. Guess who it was? It was Industry SuperFunds. Guess who they are in bed with? The Australian Labor Party. It is why the opt-in was put forward. It is why the opposition are defending the opt-in test. Treasury is projecting $190 million costs a year, with a further $90 million savings a year. I want to make this point to the chamber: if you add costs to how financial planners do their job, who is going to pay for it? I tell you who is going to pay for it—the client, the person seeking the advice. If it gets too expensive then people are not going to seek advice, and that is a real worry. When we have almost $1 trillion in superannuation funds, with almost 30 per cent of those being self-managed, we need good, strong, solid advice to protect the best interests of the clients—and that is what we will get.

I commend Senator Cormann for the work he has done on this. The opposition have done what is expected. The Ripoll report went further than what the committee agreed on. At that time, the coalition, then in opposition, put in a dissenting report. We made it quite clear before the election and after the election that we were going to introduce the recommendations made in the dissenting report. That is the reason we are pursuing this line.

To say that the commissions and the remunerations will be put back in place is simply wrong. That is not the case. With respect to personal advice, that cannot be the case. Senator Cormann has made that quite clear. There is nothing worse than seeing people who have worked hard all the lives lose their money. I was the first politician to meet with Storm Financial victims. The whole program was destined to fail. My colleague Senator Macdonald joined us in Townsville, and Senator Brett Mason was involved in the hearing as well.
It was a sad story. Let's say you have an expensive house, worth $1 million. You borrow half a million dollars against your house and use that for a deposit on a marginal loan and buy another $2 million worth of shares. You would have $2½ million worth of shares. The dividends on those shares are supposed to pay the interest on the $2½ million and give you $50,000 or $60,000 a year on which to live. You cannot do it. The capital growth in the share market might help you for a few years but when the share market turns down—history shows that it always does at some stage—then you are gone. The Storm Financial product was destined to fail. I feel so sorry for those people who went through so much, fearing that they would lose their houses.

ASIC did come to the fore. They put a lot of money into fighting court cases to see if an unregistered managed investment scheme was being promoted. Unfortunately, the court never made a decision. ASIC made settlements. They told me at Senate estimates that they spent that money to pursue settlements. I will go to my grave believing that it is not ASIC's job to pursue settlements in financial discrepancies and disagreements. It is ASIC's job to enforce corporate law, and they should get a judgement. Whichever way the mop flops, people can determine what they do after that.

Senator Bilyk interjecting—

Senator WILLIAMS: We will not go into mops, Senator Bilyk. The point I was making was that ASIC should have pursued judgements. There have been settlements and some people are a bit happier than they were, but these changes to FoFA are to get rid of the costs so that people can afford to get good advice. The rules will be in place; they will not be removed. The clients' interests will come first and foremost. To say that anything will change is simply wrong. There has just been a big scare campaign from those opposite as far as these changes go.

Senator O'NEILL (New South Wales) (16:47): I, too, rise to take part in this debate this afternoon. It is a matter of genuine public interest. It is a matter of considerable concern. In my former role as the member for Robertson—and also as chair of the Parliamentary Joint Committee for Financial Services and Corporations—I had the incredible privilege of hearing the awful stories, particularly with regard to Trio Capital. I learned about Trio when I picked up that committee. People were advised very poorly—we have heard number of those stories here this afternoon—and ended up in the most desperate situations.

I can remember one Saturday morning when the sun was shining and, for all intents and purposes, it was a great day in Australia. I walked down the street in Kincumber and knocked on a door. A gentleman approached me. He had never been doorknocked by a politician before. The story that unfolded about the loss of his entire life savings of $800,000 was the first that I heard of the terrible impact of the Trio Capital range of advice that was given to people.

I do not want to paint the entire financial services sector in a negative light. That is the risk of a debate like this. There are people who are doing a great job, helping Australians to earn money, grow their wealth and improve their retirement. But that sector is very divided on this issue. I want to put on the record, before I go any further, the comments of Matthew Rowe in response to Emma Alberici, who asked the question about a point that has been much debated here this afternoon—the consumers' best interests. Let's be clear about what that means. When I go to a doctor, I expect the doctor to give me advice in my best interest, not his or hers.
When I go to a lawyer, I expect the lawyer to give me advice in my best interest, not his or hers because they are subject to some sort of corrupting influence or financial incentive. When Australians today go to a financial planner, they want to know that they are going to have information given to them that will be in their best interest. That is what this legislation is going to pull apart. The FoFA reforms that the Labor government put in were seeking to ensure, for all Australians, that the advice they are given is in their best interest. But that is what is under discussion at this point, and ready for dismantling. Emma Alberici asked the core question:

Reintroducing the ability for planners to accept commissions, is that in consumers' best interests? We've talked about the interests of you and businesses like yours, is that change in the best interests of consumers?

Matthew Rowe, who is the chair of the Financial Planning Association, made it very clear. On behalf of the industry itself he said:

I don't believe it's in the best interests of consumers. I think it's a retrograde step.

That statement reveals two very important things. Financial planners who wanted to do good work for Australians are very happy with the FoFA legislation that the Labor government put through, because it is an effort to professionalise an industry where there have been sharks and shonks—people of avarice and greed—who have ripped families apart and ripped people's savings away from them, knowingly acting in their own interests instead of their clients' interests. That is what all this FoFA talk is about.

Often people listening to these debates wonder what legislation in this place does. I was intimately associated with the FoFA legislation. I want to acknowledge the great work of the member for Oxley, Mr Ripoll, and his committee. The legislation was about ensuring that Australians can have confidence when they go to secure information about their financial future. We implemented a best-interest duty. We said that people should be able to opt in. Every two years they should have a choice put before them: do I really want to stay with this person or not? There should be annual disclosure statements provided to let you know exactly what it is that you are paying for so that you can make an informed decision about sticking with it or moving off. Conflicted remuneration was the most insidious of all elements that needed to be removed, but it is up for grabs again now because of this legislation that has been introduced by Senator Cormann.

The problems we face with the legislation that came through from the then Assistant Treasurer, Senator Sinodinos, are that it removes best interests, scraps opt in and gets rid of annual disclosure, and there is only a partial lifting, but a dangerous one, of conflicted remuneration. These things put Australians' hard-earned savings at risk and put the financial sector at the edge. Instead of being a critical profession, they become marginal boundary riders and a shonky profession. We cannot allow it to be that way. I urge the government in its reconsideration to hold up the FoFA reforms as they were— *(Time expired)*

**Senator EDWARDS (South Australia) (16:52):** I rise to contribute to this debate today. I just want to confirm to everybody who is listening to this our commitment on the government side to the FoFA reforms—the Future of Financial Advice reforms. I must comment on a number of things that have been said in this chamber. I have listened to banks and the financial advisers industry being vilified in here by Senator Bishop. It is almost as though if you are a bank teller providing general advice you are a criminal.
I think that Senator Cormann has made a very bold and courageous move in embracing further debate on this legislation. The government remains, as I said, committed to implementing these improvements to the future of financial service laws, and we took that to the last election. When I look at the inquiries in 2011 prior to the implementation of this, there was broad support, and as far back as August 2011 when in opposition we raised the fact that we did not like what we saw. We went to the election and said that we would change this. The people of Australia are expecting us to implement the election promises that we took to them, and this is no different.

Unlike the Labor Party, who do not like to have a policy debate, we are going to have a policy debate. There are sections of the community that are not entirely happy and we will embrace them. We heard in question time earlier today that the superclinics in Western Australia are a dismal failure. That is a policy that they did not want to listen to advice on. We argued with the government at the time about the folly of what they were proposing. That policy never got proper scrutiny. They rammed it through, and what do we have? We have one empty GP superclinic in Western Australia, and six were promised. Typical of Labor: the policy is big and bold but they do not deliver. We do not intend to do that.

While we are talking about debating policy, the changes to the FoFA policy came about because the industry said it is going to cost so much money. While we are talking about policy, wouldn't it have been good to have had more policy debate on the pink batts program? Wouldn't it have been good to have had policy scrutiny on the cash-for-clunkers program? Wouldn't it have been good to engage and exercise a little bit of caution on GroceryWatch? What happened to GroceryWatch? And there was the mother of all policy failures: the NBN. Reportedly, it was put together on the back of a serviette on a VIP flight with the then Prime Minister—with the revolving doors of Labor's Prime Ministers—and Senator Conroy. Wouldn't it have been good if that policy had suffered a little bit more scrutiny—in fact, if that policy had had a business plan? It was the $40 billion infrastructure project of the century. What a failure that has been, yet here we are left to pick up the pieces and clean up the mess.

We are not going to do that. Like Senator Brandis, the Attorney-General, announced today, we are going to put out an exposure draft on section 18C. That is because we want to engage the community. There will be an exposure draft so that all the backbenchers, the opposition, the media and all the interest groups can have a say. That is the same scrutiny that Minister Cormann is going to apply to this. We are committed to ensuring we have the right balance between appropriate levels of consumer protection and ensuring affordable access to high-quality advice. What Labor did in government was regulatory overreach, because they do not understand—it is just easier to regulate than try and solve the problem. They just want to talk about the problem; they do not want to fix the problem. They imposed way too much unnecessary and costly regulation which ultimately has to be paid for by the people saving for their retirement. That $190 million of ongoing operational costs are going to have to be paid by the same retirees who want their money invested. Wouldn't it be much better if that $190 million a year was left in the pockets of the people who earned it and they were not burdened with this regulatory claptrap—that is the word that comes to mind—that Labor just lazily overlaid on industry.
I have a lot of sympathy for what has been going on. This is a highly technical area. The more technical and harder the argument the easier it is to knock it off its feet. The simple play from the other side is, ‘We’ll be ruined,’ but we will not be because otherwise you will not stop fraud, you will not stop criminal activity and you will not stop the Bernie Madoffs of this world who are systematically corrupt. The rules and regulations will be there for the benefit of all the people who are good and have proper intentions. In the meantime, there is an inquiry underway, which is due to report in the middle of June. I urge all members of the public and of the Senate and the other chamber to have their input into that important inquiry.

DOCUMENTS
Draft Labour Market Growth Projections
Order for the Production of Documents

Senator FIERRAVANTI-WELLS (New South Wales—Parliamentary Secretary to the Minister for Social Services) (17:00): I table a document relating to the order for the production of documents concerning draft labour market growth projections.

COMMITTEES
Human Rights Committee
Report

Senator SMITH (Western Australia) (17:00): On behalf of the Parliamentary Joint Committee on Human Rights, I present the fifth report of the 44th Parliament of the committee on the examination of legislation in accordance with the Human Rights (Parliamentary Scrutiny) Act 2011.

Ordered that the reports be printed.

Senator SMITH: by leave— I move:

That the Senate take note of the report.

I rise to speak to the tabling of the Parliamentary Joint Committee on Human Rights' fifth report of the 44th Parliament. This report examines 22 bills introduced in the period 17 to 20 March, three of which have been deferred for further consideration, and 42 legislative instruments received in the period 1 to 7 March. The report also includes the committee's consideration of seven responses to matters raised in previous committee reports. Of the bills considered in this report, I note that the following bills are scheduled for debate during this week:

- the Marriage (Celebrant Registration Charge) Bill 2014;
- Marriage Amendment (Celebrant Administration and Fees) Bill 2014;
- the Defence Force Retirement Benefits Legislation Amendment (Fair Indexation) Bill 2014
- the Classification (Publications, Films and Computer Games) Amendment (Classification Tools and Other Measures) Bill 2014;
- the Omnibus Repeal Day (Autumn 2014) Bill 2014; and
- the Clean Energy Finance Corporation (Abolition) Bill 2013 [No.2].
The report outlines the committee's assessment of the compatibility of these bills with human rights, and I encourage my fellow senators to look to the committee's report to inform your deliberations on the merits of this proposed legislation.

I would like to draw senators' attention to a point of particular interest which arises in relation to a number of bills considered in the report and which highlights the committee's approach to undertaking its assessments of the compatibility of legislation with human rights. As senators would be aware, a number of bills introduced in this period of sittings are intended to further the government's deregulation agenda by the removal of spent and redundant legislation as well as the removal of regulation considered to be burdensome, unnecessary or as duplicating other regulatory arrangements. These bills include:

- the Omnibus Repeal Day (Autumn 2014) Bill 2014;
- the Statute Law Revision (No 1) Bill 2014;
- the Independent National Security Legislation Monitor Repeal Bill 2014; and
- the Australian Charities and Not-for-profit Commission (Repeal) (No 1) Bill 2014.

From the perspective of the committee's assessment of legislation for compatibility with human rights, bills seeking strictly to repeal spent and redundant legislation, by definition, lack any substantive or practical effect that might engage, promote or limit human rights. However, where a bill seeks to repeal existing arrangements, the committee's assessment must take into account the extent to which the repeal of those arrangements may reduce or remove human rights protections. To determine this, the committee looks at the extent to which any arrangements that will remain or are proposed in place of the repealed measure offer equivalent or greater protection of human rights.

For the benefit of those involved in the development of repeal measures of this type, I note that it is therefore important that statements of compatibility address the question of whether the removal of regulation will reduce or remove human rights protections. Where existing or new arrangements will remain or take the place of repealed regulation, statements of compatibility should also provide sufficient information to support the committee's assessment of whether those remaining or proposed measures will offer equivalent or greater human rights protections.

In relation to legislative instruments, the committee examined 42 instruments for this report and will seek further information in relation to two instruments. One of these instruments amends a marine order made under the Marine Safety (Domestic Commercial Vessel) National Law Act 2012, and the committee has taken the opportunity to draw attention to its concerns regarding uniform national schemes such as those routinely negotiated through COAG and other intergovernmental forums. The committee's concerns relate to the potential for these schemes to be developed and agreed on without formal human rights considerations and to restrict the capacity of jurisdictions to ensure that, once enacted, such legislation is or remains compatible with human rights obligations. In addition to restating its concerns with national scheme legislation, the committee has sought an update on the progress of consultations to amend the Protocol on Drafting National Uniform Legislation to ensure that human rights considerations are addressed in the development of such legislation.
Finally, in relation to responses to matters previously raised by the committee, the report contains consideration of seven such responses and the committee's concluding remarks on these matters.

With these comments, I commend the committee's fifth report of the 44th Parliament to the Senate.

Question agreed to.

Public Works Committee

Report


Education and Employment Legislation Committee

Membership

Senator SCULLION (Northern Territory—Minister for Indigenous Affairs and Leader of The Nationals in the Senate) (17:07): by leave—I move:

That Senator Wright replace Senator Rhiannon on the Education and Employment Legislation Committee for the committee's inquiry into the provisions of the Fair Work Amendment Bill 2014, and Senator Rhiannon be appointed as a participating member.

Question agreed to.

BILLS

Land Transport Infrastructure Amendment Bill 2014

First Reading

Bill received from the House of Representatives

Senator SCULLION (Northern Territory—Minister for Indigenous Affairs and Leader of The Nationals in the Senate) (17:08): I move:

That this bill may proceed without formalities and be now read a first time.

Question agreed to.

Bill read a first time.

Second Reading

Senator SCULLION (Northern Territory—Minister for Indigenous Affairs and Leader of The Nationals in the Senate) (17:08): 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—

The purpose of the Land Transport Infrastructure Amendment Bill 2014 is to amend the Nation Building Program (National Land Transport) Act 2009 and to repeal the Australian Land Transport
This Government is committed to building the infrastructure of the 21st century - the infrastructure Australia will need to meet the challenges and opportunities ahead.

The Government is working with state and territory governments to deliver the nationally significant infrastructure projects to grow Australia’s productivity and improve living standards. We also need to work in partnership with the private sector to maximise private capital investment in infrastructure. This collaboration between the Australian Government, states and territories and the private sector will enable the successful delivery of the infrastructure Australia expects, industries need and our people deserve.

Through the Infrastructure Investment Programme, the Government has committed $35.5 billion over 6 years to road and rail projects, including:

- $6.7 billion to upgrade the Bruce Highway;
- $5.6 billion to finish the duplication of the Pacific Highway;
- $1.5 billion to the WestConnex project in Sydney;
- $1.5 billion for the East-West Link in Melbourne;
- $1 billion to continue the Gateway Motorway North upgrade in Brisbane;
- $700 million for the Toowoomba Second Range Crossing;
- $686 million to finish the Gateway WA Project in Perth;
- $615 million to build the Swan Valley Bypass on the Perth to Darwin Highway;
- $500 million for the upgrade of South Road in Adelaide;
- $405 million for the F3 to M2 Link project in Sydney; and
- $400 million to continue the Midland Highway upgrade in Tasmania.

The Government has also committed $300 million to finalise plans, engineering design and environmental assessments for the Melbourne to Brisbane Inland Rail project.

Amendments to the Nation Building Program (National Land Transport) Act 2009 (the Act) are necessary to facilitate the Government’s ambitious land transport infrastructure agenda.

The Bill will rename the Act to the National Land Transport Act 2014. The names of some of the parts of the Act will also be amended to reflect its change of name. This name change also requires consequential amendments to the Income Tax Assessment Act 1997 and the Telstra Corporation Act 1991.

The Bill enables the continuation of the Roads to Recovery Programme (the Programme), which provides vital funding to local governments for the maintenance of the nation’s local road infrastructure beyond 30 June 2014.

This change is necessary as the Act currently specifies the Roads to Recovery funding period as ending on 30 June 2014. The Bill removes the specification of the funding period from the Act and places it in the Roads to Recovery List. This removes the need to amend the Act every time the Roads to Recovery funding period changes, and ensures that this very important programme will continue.

The Bill also inserts a power for the Minister to determine a Roads to Recovery List, which is essential for the Programme to be able to function. The Roads to Recovery List will be exempt from disallowance under the Legislative Instruments Act 2003, which will provide certainty for the local government funding recipients of the Programme.

The Bill also streamlines and enhances the operation of the Act by combining Part 3, National Projects, and Part 6, Off-Network Projects, into one Part for Investment Projects. Parts 3 and 6 contain a
significant number of identical provisions. By combining the two parts into one this will removes unnecessary duplication of provisions.

The new Part 3 for Investment Projects also includes a new requirement that states and territories notify the Minister as soon as possible after the sale or disposal of land that was acquired using Australian Government funding. This will ensure a timely response to land sales or disposals from both the states and territories and the Australian Government. The proceeds of the sale or disposal can then be allocated to new infrastructure projects.

The Bill also slightly alters one of the reasons for granting states and territories an exemption from the public tender requirements in Part 3. Work that costs less than an amount prescribed by regulations can currently be exempted and this is being altered so that the amount is determined instead by legislative instrument. This alteration will reduce regulatory delays.

The Bill introduces a new type of project that can receive funding under Part 4 of the Act - Transport Development and Innovation Projects. Projects that involve research, investigations, studies or analysis of Investment or Black Spot projects, previously funded Off-Network projects, and works funded under the Roads to Recovery Programme, will be eligible for Part 4 funding. This amendment will enhance the management of projects and the Infrastructure Investment Programme. Part 4 funding will also be able to be used for analysis of projects submitted for consideration for funding as Investment or Black Spot projects, to help inform advice to Government.

The Bill also adds two new types of eligible funding recipient into the Act. Partnerships have been added as an eligible funding recipient for Parts 4 and 5 of the Act. This change will simplify funding arrangements for firms without a body corporate structure. Non-corporate Commonwealth entities whose functions include research related to land transport research operations will now be able to receive funding under Part 5 – Funding for land transport research entities.

The Government has committed to the continuation of the Black Spot Programme, which provides funding to address road sites that are high risk areas for serious crashes. Black Spot Projects are administered under Part 7 of the Act and the Bill makes a few changes to that Part as a result of the Act’s name change.

The Bill makes no amendments to the National Land Transport Network, a vital component of the Infrastructure Investment Programme. This Network contains the key road and rail links connecting Australia.

The Bill also repeals three spent land transport infrastructure Acts. The Australian Land Transport Development Act 1988 was superseded by the then AusLink (National Land Transport) Act 2005, now the Nation Building Program (National Land Transport) Act 2009. There are no outstanding claims under the Australian Land Transport Development Act and consequently it should be repealed.

The Bill also repeals the Roads to Recovery Act 2000. The Roads to Recovery Programme commenced under this Act and in 2005 the Programme was moved into the then AusLink (National Land Transport) Act 2005, now the Nation Building Program (National Land Transport) Act 2009. There are no outstanding claims under the Roads to Recovery Act and consequently it should be repealed.

The Bill further repeals the Railway Standardization (New South Wales and Victoria) Agreement Act 1958. This Act incorporates an agreement between the Australian Government, New South Wales and Victoria to implement gauge standardisation, with the Australian Government loaning funding to New South Wales and Victoria for that purpose. These works were completed in 1962 and the last loan repayments were received in June 2013. As the loan has been repaid the Railway Standardization New South Wales and Victoria Act can now be repealed.

The amendments to the Nation Building Program Act, and the repeal of the three spent acts, do not have any regulatory or financial impacts on businesses and the not-for-profit sector.
Australia’s future growth will be significantly influenced by our capacity to deliver more appropriate, efficient and effective infrastructure. The amendments in this Bill will help to better deliver the infrastructure Australia critically needs.

I commend the Bill to the House.

The ACTING DEPUTY PRESIDENT (Senator Ruston): In accordance with standing order 111, further consideration of this bill is now adjourned to 13 May 2014.

REGULATIONS AND DETERMINATIONS

Veterans’ Children Education Scheme (Income Support Bonus) Repeal Instrument 2014

Military Rehabilitation and Compensation Act Education and Training Scheme (Income Support Bonus) Repeal Determination 2014

Disallowance

Senator FARRELL (South Australia) (17:09): I seek leave to move business of the Senate notices of motion Nos 2 and 3 together.

Leave granted.

Senator FARRELL: I move:

That the Veterans’ Children Education Scheme (Income Support Bonus) Repeal Instrument 2014, made under subsections 117(2) and (3) of the Veterans’ Entitlements Act 1986, be disallowed [F2014L00257].

That the Military Rehabilitation and Compensation Act Education and Training Scheme (Income Support Bonus) Repeal Determination 2014, made under subsections 258(4) and (5) of the Military Rehabilitation and Compensation Act 2004, be disallowed [F2014L00256].

These two motions will disallow the Military Rehabilitation and Compensation Act Education and Training Scheme (Income Support Bonus) Repeal Determination 2014 and the Veterans’ Children Education Scheme (Income Support Bonus) Repeal Instrument 2014.

I can scarcely believe that I need to do this. The ALP is incredulous—and I repeat incredulous—that this government would be small-minded enough to cut small income support bonus payments to the children of war veterans. We all know what this is about. It is a small-minded, mean-spirited attempt to make a political point about the MRRT, using children of veterans who have performed the highest form of public service—that is, they have borne arms and put themselves in harm’s way in the service of our country. This is pathetic. In fact, it is more than pathetic; it is despicable.

Labor are deeply committed to keeping in place these income support bonus payments to the children of war veterans. We make no apology for that and we make no apology at all for going in to support our veterans and their families. Our aim is to keep in place income support bonus payments to the children of war veterans, which the government is so callously determined to cut. These disallowance motions will void the repeal of those payments to the children of veterans, some of whom are homeless or do not live at home. Some of them, tragically, are orphans.

Let us look at the callous cuts that the government is proposing to make: a total cost to the budget of $254,000. Seriously, we have probably spent that amount in getting people here to Canberra today to debate this matter. Let us look at what the payment was designed for. It
was designed to help the children of veterans and their families meet the sort of unexpected
and unwelcome expenses that arise. Under this scheme, each eligible veteran's child receives
$215.60. While some of us may see this as a small amount, it can mean a great deal of
difference to a veteran's child. It might mean a pair of new footy boots, a school trip, a new
school blazer or some music lessons. What is the ADF community to make of this proposal?

If I were a mate of a dead or wounded digger and I watched this happen to my mate's kid, I
would seriously begin to wonder what sort of small-minded, penny-pinching country we had
put ourselves on the line for. I repeat: bearing arms is the highest form of public service bar
none. Those of us who send these people into conflict in our name have an onerous
responsibility. That responsibility is to ensure that the courage and sacrifice of these people is
reflected in the care that we give them upon their return and the care and consideration that
we show for their families.

With regard to Australia's veterans we must discharge this duty of care to them and their
families and not count the cost—ever! If the government wants savings, might I suggest that it
look to, for instance, the Prime Minister's paid parental leave scheme for millionaires. Believe
me, there are savings aplenty to be found there. Anyone in this place knows that government
members and senators are far from universally supportive of this piece of legislation. Today,
coalition MPs and senators will have to decide whether they will support children of ADF
veterans or back the Prime Minister's penny-pinching, mean-spirited and small-minded cuts.

The income support bonus is paid by the Department of Human Services and the
Department of Veterans' Affairs to assist those students who rely on government allowance as
a primary source of income. It provides funding for unexpected expenses. Students who
receive an education allowance under the Veterans' Children Education Scheme or the
Military Rehabilitation and Compensation Act Education and Training Scheme are entitled to
the income support bonus. Criteria for eligibility under the VCES guidelines include the
following young people: those children of veterans who receive disability pension at various
rates, depending on their level of disablement—for example, if they have suffered amputation
or blindness; $215.60 for the child of an ADF member who has died and whose death was
war- or defence-caused; $215.60 for the child of a veteran who was an Australian prisoner of
war and who is now deceased; and $215.60 for students who are the children of Vietnam
veterans or former members of a peacekeeping force.

The income support bonus for these students is paid twice a year—in late March and in
September. This is the payment the coalition will cut, a yearly income support bonus of a
measly $215.60 that goes to children of injured or killed diggers. In my home state—and
yours, Madam Acting Deputy President Ruston—of South Australia, there are 77 children
who will be affected by the scrapping of this payment.

Let me repeat: the cost of providing this assistance is just under $254,000 a year. That is
less than 0.005 per cent of the Prime Minister's universally derided paid parental leave
scheme for millionaires. It is a sad day when the government puts the saving of a measly
amount of money ahead of the welfare of children of veterans, some of whom have paid the
ultimate price in the service of our country.

The president of the New South Wales RSL, Don Rowe—not someone you would expect
to line up with the Labor Party on many issues—has publicly stated his absolute disgust with

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this decision. He described it as 'a mean penny-pinching exercise'. I agree. It is mean and miserly. Legacy Australia said:

Legacy would be disappointed if any of the welfare payments are cut to the families of deceased or incapacitated veterans.

It is time for coalition MPs and senators to come out from behind the lines. Do they want to be part of a government that is happy to proceed with a $5.5 billion parental leave scheme but cannot find $250,000 for the children of veterans? They should ask the Prime Minister exactly when it was that he stood before the Australian people prior to the election and declared that he was going to cut support for the children of soldiers who had been killed or wounded in action. He did not say that.

The Prime Minister and the coalition love to drape the flag over themselves and stand up damp-eyed at Anzac Day dawn services in their electorates, yet this is how they treat veterans and veterans' families. It is shameful. In the context of an annual budget that runs into hundreds of billions of dollars, to do this to save $254,000 is mind-boggling. This is nothing more than a shameful political stunt by the government to underline its opposition to the MRRT. I urge the Prime Minister and the government to go and pick on someone their own size, not the children of deceased, sick or injured veterans.

This is a cruel and callous government, one that is happy to spend more providing paid parental leave to just four high-income earners than it would cost to keep up this support to the 1,200 children of ADF veterans. That is what the government will be voting for with this legislation—cuts to payments for the children of war veterans. The priorities of this government are simply wrong. It should scrap its unfair and unaffordable parental leave scheme instead of hitting low- and middle-income families.

The real Abbott government is now standing before us. We are seeing how callous its actions are and will continue to be. The Prime Minister is steadfast and was unapologetic even today about cutting these benefits to the children of veterans. He has indicated very clearly what his priorities are. We say that the families of our veterans deserve respect and gratitude. Taking away their modest payments is incredibly insulting.

I am proud to move these disallowance motions on behalf of the Labor Party. We can scarcely believe the government would go to so much effort to save $254,000. I call on senators opposite to join us in disallowing these regulations. Come on over. Cross the floor and demonstrate to ADF members, past and present, that you have the courage to stand up, Senator Edwards. All ADF members and their families know who you are and how you are going to vote.

This payment was intended to help cover unanticipated expenses. Families know how often these arise. On this side of the house, we know just how much difference a small amount of financial assistance can make to students and their families. If there is a bone of compassion in his body, the Prime Minister will reverse the decision immediately. He should reverse this callous decision. He ought to back down and ensure that the children of Australian war veterans get the support they deserve. We need to send a clear and unequivocal message today that this parliament in no way supports the government's attempts to deprive the children of veterans of this modest payment.
Senator WRIGHT (South Australia) (17:20): I rise to support these disallowance motions. Put simply, these motions would block the government's attempts to cut income support to the children of veterans. The Australian Greens are resolute in our support for these disallowance motions because we consider it crucial to support veterans and their families. The impact of military service extends far beyond its enormous impact on the Defence Force personnel involved. It has an impact on their spouses, their families and their children.

These motions would disallow two instruments—the Veterans' Children Education Scheme (Income Support Bonus) Repeal Instrument 2014 and the Military Rehabilitation and Compensation Act Education and Training Scheme (Income Support Bonus) Repeal Determination 2014. The Veterans' Children Education Scheme (Income Support Bonus) Repeal Instrument is intended to repeal a scheme which established an income support bonus for certain veterans' children. The second repeal instrument is intended to repeal a scheme which paid $211.60 per annum for unexpected expenses to recipients of education allowances under the Military Rehabilitation and Compensation Act 2004.

As we have already heard, these payments only cost the government about $260,000 a year. They are payable to a very limited number of students who have met quite high eligibility requirements—students with veteran parents who died during war service or who have qualified for pensions at rates adjusted for their impairment. This amounts to only about 1,240 students across Australia who are eligible for these payments. The payments were introduced in March 2013 at a cost of $260,000 per year, funded by the mining tax. There is a good rationale for these payments from the Department of Veterans' Affairs: they are to help eligible children achieve their full potential in education or career training. On the other hand, the government's rationale for repealing the benefits is that it has decided to repeal the mining tax.

Many groups, very understandably, do not consider that to be good enough. As we have already heard, the New South Wales state president of the Returned and Services League, Don Rowe, said he was 'absolutely disgusted' by the government's decision. The Australian Greens too believe that it is a mean-spirited act to take money away from veterans' children with one hand and return it to the shareholders of wealthy mining companies—80 per cent of whom live overseas—with the other.

Rather than cutting support for veterans' children and partners, the Australian Greens have consistently been calling for greater recognition and support for families. Veterans' families are in a unique circumstance. They provide a huge service to us all but often end up disadvantaged by their loved ones' own personal military service. They move around a lot; their employment and schooling is disrupted; they endure long absences, sometimes with family members in situations of great danger and conflict. And then they pick up the pieces afterwards if their loved one is injured or affected badly by the experiences they have had. And, of course, some partners, children and families lose their loved one forever. So the Australian Greens know that families play a crucial role in caring for veterans, and we want to support families in this.

It is really as simple as this: if we are prepared to send people to serve in conflict on our behalf, it is only right that we treat them fairly and we look after them properly when they return. Military service extends beyond Defence Force personnel to their families, and the Greens are committed to caring for veterans' families. The income support bonuses to be
repealed by these instruments are inexpensive, practical ways to benefit veterans' student children in difficult circumstances. There is no rationale for taking these away.

As the Australian Greens spokesperson for veterans affairs, I have met extensively with the partners and families of veterans; I have spoken to wives, partners and offspring; and I have heard firsthand many stories about the long-term and debilitating impacts of war and war service. I have heard accounts, from myriad sources, of veterans suffering for years without diagnosis or treatment, with conditions like post-traumatic stress disorder or other disorders that make life a misery for them, and sometimes for their families as well.

I have heard the accounts of partners who have been disbelieved in the early years about the experiences they had living with their partners. I have heard about children cowering and hiding. 'Walking on eggshells' is a phrase I commonly hear because of the debilitating consequences on veterans who return from high conflict and danger. These accounts are actually alarmingly common.

Frequently I meet with partners and hear their stories. These are often heartbreaking stories about partners who have known their veteran partner since before they went into military service, and about the changes in personality and the changes in outlook that they have experienced over the years since then. I have heard that post-traumatic stress disorder can commonly manifest as depression, rapid and severe changes in mood and behaviour, terrifying nightmares, hypervigilance and, in some cases, violence. I have heard how some people end up self-medicating through alcohol or other drugs. These symptoms alone can have enormous impacts on veterans and their families.

There is clear evidence now that it is not just the health of veterans which is affected by military service; there are studies which show that there are significant health risks for veterans' partners and their families, relating to their caring role. Professor Brian O'Toole from the Brain and Mind Research Institute has reported that partners of Vietnam veterans have mental illnesses at levels 20 to 30 times higher than the general population. Similarly, in 2005 Dr Hedley Peach, of the University of Melbourne, reviewed various studies and reported that psychological disorders affect partners and children of veterans at substantially higher rates than the non-veteran population, and carry an associated risk of cardiovascular and other physical diseases.

Veterans' children are reported to be at risk of higher rates of various congenital birth conditions and health problems. Long-term studies show that being the partner or child of a Vietnam veteran with post-traumatic stress disorder is a predictor of suffering from a mental disorder which can in turn affect grandchildren. It is reported that suicide levels among veterans' children are up to three times higher than the rest of the Australian population.

The need to support veterans and their families with adequate mental health services and other supports is much broader than income support, and I look forward to working with the government on these complex issues. However, decent support with education and a livelihood for veterans' children is the least that we can do.

When I spoke about the mining tax repeal bill last week, I cited the payments under the Veterans' Children Education Scheme and the Military Rehabilitation and Compensation Act Education and Training Scheme as prime examples of that bill's short-sightedness. The Greens want to strengthen the mining tax, not repeal it. We want to share the profits from our
nation's mineral wealth among our community—the community that owns these shared resources and the community that contributes to the society that makes this mining and this wealth possible. This government's move to discontinue these payments to veterans' children, because it is hell-bent on repealing the mining tax, is mean-spirited and bloody-minded.

We demonstrate our values by the choices we make. We do not have an infinite source of revenue but we can choose to have the revenue that is available to us from things like sharing the wealth that is generated by our shared resources. So do not tell me that we do not have sufficient wealth in Australia—one of the most wealthy nations in the world—to properly look after those who are the most needy. Education, health, mental health—how we look after the most vulnerable is the sign of how civilised we are as a nation. In this case, we have a government that is choosing to look after its mates and to repeal the mining tax legislation—a decision that will directly see more money in the pockets of its wealthy mining company mates, wealth which is generated from the resources that we all own and that belong to all of us—and choosing, at the same time, to take away money from the children of veterans who have died or who are disabled.

The Greens took a fully costed proposal to support veterans' families to the federal election last year. We know that, as a community, we owe the partners and families of veterans a huge debt. Government decisions have sent their loved ones to serve on our behalf, as a nation, into hazardous and often highly distressing situations. So it is only right that we care for them properly and care for the families who support them.

I would just like to give an indication of some of the initiatives that we developed, took for costing and took to the election. These were based carefully on the listening I have been doing over a period of years with veterans and their families. We would allow children of veterans who are acting as a carer for their veteran parent and the parents and siblings of veterans killed in service to access counselling through the Veterans and Veterans Families Counselling Service. The provision of counselling services is a tangible way to support them. We would grant bereavement payments to partners who have separated from their veteran partner where it is established that the veteran's mental ill health played a part in the separation. This initiative would recognise the unique pressures that veterans' partners experience through living with a veteran, which can affect their lives or their relationship and are often directly attributable to the military service.

Our initiative would have increased funeral benefits under the Veterans' Entitlements Act 1986 from $2,000 to $4,000, subject to review every five years to keep up with increasing costs. Our initiative would make the Department of Veterans' Affairs the responsible department for assessing the eligibility of veterans' carers for the Centrelink carer allowance, because it is that department that has a much better understanding of the nature of the condition experienced by veterans and the consequences and effects of caring for someone with that condition by their partners.

We would change the current situation regarding carer allowance so it is no longer cancelled after the veteran has been hospitalised for six weeks, which requires partners and carers to reapply. We would review the carer supplement every five years to ensure that the payment is adequate. We would increase veterans' home care respite services to 260 hours per year. That is merely 10 hours per fortnight, but I have heard time and time again from partners of veterans that that precious 10 hours—when they are looking after a veteran and
often cannot leave the house or, if they can leave the house, often cannot do so with any certainty that they will be able to stay away without getting the call that they are required back home—would give them the chance to go and get a haircut, to go and have a cup of coffee with friends, to see family or to do some shopping.

We would also establish and maintain a jobs for Defence families website that would assist Defence families—who are often uprooted and moved around—and their partners to find employment with people who have an understanding and a respect for the Defence Force, so that they can be partnered up or given the opportunity to find out about employers who would make jobs available for them. I have been told the nomadic existence, in some ways, that veterans and partners experience is one of the great pressures on veterans' relationships. We would fund the Defence Community Organisation to provide enhanced induction and support seminars for Defence families before their loved one enters Defence service and also when they are leaving, so that they can be alerted to the things to look out for and be advised about the programs and assistances that are available for them.

So the Australian Greens oppose the repeal of the mining tax because, if the tax were implemented properly, it would share the wealth from our minerals among the community and it could fund worthy projects and initiatives just like those that I have outlined. So we are supporting this disallowance motion, because it is just not good enough to take away benefits for veterans' children just because this government is intent on repealing the mining tax. On behalf of the Australian Greens, I will continue to advocate to care properly for the people who do military service on our behalf and for the families who support them.

Senator CONROY (Victoria—Deputy Leader of the Opposition in the Senate) (17:34): I rise to speak on this government's shameful plan to cut the Department of Veterans' Affairs income support bonus. This payment supports the children of service men and women who have died or have been seriously injured while serving in the Australian Defence Force. Labor is against this government's plans to take away this measure from the children of ADF personnel. Labor is proud that we provided the income support bonus while we were in government. I note that Labor's opposition to the MRRT bill in the Senate has allowed another payment of this very support just this week. It is a payment that would not have been made if the MRRT bill had passed.

This motion makes clear that, even if the government succeeds in removing the minerals resource rent tax, we will continue to fight for the income support bonus. What we are talking about here is $250,000 a year in the budget. That is about $215 per child of a deceased or injured member of the ADF. It is not a huge sum of money, but it is an acknowledgement of your commitment to look after the families of our ADF men and women.

To be honest, I am genuinely surprised that I need to speak on this. It had never occurred to me that a government would want to do this—stripping money away from the children of veterans. I find it inconceivable that any government would be so heartless as to cut income support to the children of service men and women who have died or been injured while serving their country. There are 1,200 children in Australia who will be affected by this cut—1,200 children who will miss out on about $215 a year.

RSL officials, as has been mentioned, have described these cuts as a mean-spirited, penny-pinching exercise that will hurt Defence families. Mean-spirited and penny-pinching—I could
not have put it better myself. What makes these heartless cuts even more galling is that the they only save an estimated $250,000. That is all: $250,000.

Senator Lines: Shame.

Senator CONROY: I will take that interjection of 'shame' because that is exactly what it is. I will give those opposite some free advice: if they want to save $250,000, they could sack their mate Tim Wilson from the Human Rights Commission or, better yet, just cut Ziggy Switkowski's salary down from four days to three days a week—two simple opportunities—or even not reintroduce knighthoods and damehoods, which appears to be today's priority of Mr Tony Abbott's government. What an extraordinary lack of judgement and priority by this government. It is actually true. He held a press conference and actually said it. On the day that the government wants to take away $250,000 or $215 a year away from the families of veterans, he wants to spend money and time prioritising the reintroduction of knighthoods.

The people of Australia and ADF families will not thank Mr Abbott for this surprise. He promised before the last election that his would be a government of no surprises. If you want to save $250,000, do not take it from the children of injured or killed ADF personnel. These payments are made twice a year and provide funding for unexpected expenses. These payments help with expenses like textbooks, schoolbags, uniforms, school excursions or a new set of shoes for netball or boots for footy.

The Labor Party has long supported ADF families. We have supported them because we understand that ADF members do a tough job. We understand that by supporting their families we ease their burden. Our country takes ADF personnel away from their families for months or years at a time. We ask them to do a tough job in tough conditions. We look after their families so that our ADF personnel can get on with their job without worrying about their wives or husbands and their children they have left behind.

We understand that Defence families do it tough. We understand that while they are away, often in harm's way, their family is at home taking kids to school, paying bills and going to work. Our service men and women do an amazing job. They do an amazing job because they have the support of their family. They do what the government asks of them and they do it without question.

The men and women of the ADF go to dangerous places like Afghanistan, Iraq, East Timor, and the Solomon Islands to defend the security of our country and to help our friends and allies. They go to places like Aceh, the Philippines, South Sudan and Port Moresby to help those in need. Right now, ADF personnel are flying over and sailing through the southern Indian Ocean looking for Malaysian Airlines flight MH370, which went missing two weeks ago. I would like to take this opportunity to place on record my thanks for the work that they are doing. All of us are proud of their efforts and the work many Australians are doing to support the search mission. This includes not only the men and women of our Defence Force but also the officials of the Australian Maritime Safety Authority. Federal Labor fully supports their efforts. We are grateful for their efforts and the world is grateful for their efforts.

Sometimes ADF personnel are put in harm's way and they do not come home. Sometimes they go to these places and they are so seriously injured that they can no longer work. Do not these men and women, along with their families, deserve this payment? I believe they do.
Labor believes they do and that is why we introduced this payment in government and why we are moving this disallowance motion today.

The income support bonus was not the only support that Labor provided to ADF families when we were in government. We put all the groundwork in place and fully budgeted for the National ADF Family Health Program. This program will provide gap payments for free GP visits for the families of ADF members and provide $400 a year towards specialist health care services. This ensures that the health and welfare of ADF families are being looked after. Labor was proud of this policy and was pleased to see that planning and preparation led to a trouble-free introduction. This policy will cost $103 million over the forward estimates and will provide services to around 71,000 ADF dependents.

Labor is committed to providing the best Australian-made equipment to the ADF and that is why it had a plan to bridge the valley of death. In the shipbuilding industry, Labor had plans to keep thousands of highly skilled workers on the job in the shipbuilding industry by bringing projects forward. This would have ensured that we had the knowledge, skills and infrastructure in Australia to undertake these big projects like the future frigate and future submarine projects, which I know are very dear to Senator Farrell's heart. That would be thousands of Defence industry families that would not lose an income under Labor's plan. This is in stark contrast to what the government are doing now. They are sitting on their hands, they have been in government for six months and all we have heard from them so far are empty promises and empty rhetoric. The minister needs to stand up to his cabinet colleagues and ensure that the valley of death in the shipbuilding industry is bridged so that our shipbuilding industry has a bright future.

I mentioned earlier that I was shocked that any government could seek to take away this small payment to help the children of killed or injured ADF servicemen and women. Perhaps, I should have seen it coming. This is after all a defence minister whose first action as a minister was to cut the pay and conditions of serving ADF personnel in the Middle East, including Afghanistan. The minister cut their allowance to the tune of $19,000 a year and now he wants to cut payments to the kids of ADF veterans as well. This is a disgrace, and the Senate should not stand for it.

This is a government that is happy to stand up in front of Liberal Party banners on Defence Force bases but refuses to stand up for ADF veterans and their children. That is right, Mr Acting Deputy President. Just in case you had forgotten, the Prime Minister of Australia, Mr Tony Abbott, stood up in front of a Liberal Party South Australian campaign banner—

Senator Farrell: It didn't help them.

Senator CONROY: at RAAF Base Edinburgh just two days before the South Australian election. As my South Australian colleague next to me, Senator Farrell, has made the point, it did not help them in the end. They trash convention and trash and embarrass our military just for some cheap political point-scoring on an Air Force base. He stood there on this base next to the still Liberal opposition leader, Steven Marshall, in front of a Liberal Party banner. The banner included the Liberal Party logo, Liberal Party slogans and the Liberal opposition leader's Twitter handle. This was on an Air Force base. I have written to the minister and asked for an explanation. I am still waiting to hear how he allowed this to happen and, more importantly, how he intends to make sure it never happens again.
Those opposite stand condemned by their decision to cut this payment to the children of killed or injured ADF personnel. There is no support for these cuts in the community. There is no reason for these cuts. This is one of those few times when those opposite just let their mask slip and we get to see what they are really about—mean spiritedness and penny-pinching. The Labor Party will not support the government's efforts to cut this important payment, and nor should anyone else in this chamber. The Senate should agree to this motion to ensure continued support for the children of killed or injured ADF personnel.

Senator BILYK (Tasmania—Deputy Opposition Whip in the Senate) (17:47): I rise tonight in support of this disallowance motion. This disallowance motion aims to keep in place income support bonus payments to the children of war veterans, which the government has so callously and mean-spiritedly determined to cut. This disallowance motion will void the repeal of those payments to the children of veterans, some of whom are homeless or do not live at home and some of whom are orphans.

I do so because, quite frankly, I think those on the other side are probably not allowed to, but I am sure there are those on the other side who would seek to support this motion as well, because I cannot for a moment believe they are all so mean-spirited and callous to deny veterans' children the total of just over $215 a year—not a month, not a week, not a day, but a year. I have been absolutely astounded by this fact, because the yearly income support bonus goes to the children of injured and killed diggers, and, as I said, some are actually orphans. As has been said by previous speakers, over a year, it is a mere total of about $254,000.

In my home state of Tasmania, there are children who will be affected by the scrapping of this payment. I have recently employed on my staff an ex-Defence veteran who has had some conversations about this precise issue. He is very concerned about some of the children of his colleagues from when he was in the Defence Force in regard to this matter. I am not going to take too long, but I really want to stand up and speak about this.

As I was saying, the cost of providing assistance is a total of around $254,000 a year, and that is less than 0.005 per cent of Mr Abbott's universally derided Paid Parental Leave scheme for millionaires. That is also much more than some people get paid for being on the board of a water company and only doing a couple of weeks work. Let me point that out: you might be on the board of a water company and only have to do a couple of weeks work and you could receive just about the same amount. So it is a sad day, I think, when the government puts the savings of a measly amount of money ahead of the welfare of children.

Everybody in this place knows that I have a longstanding interest in the welfare of children. Be it just over $200 a year or be it $20,000 a year to children who deserve it, it is a very important issue to me, and I know it is to a number of other people as well. Prior to the election, Mr Abbott said the government would promise to repeal the MRRT and the benefits it was intending to fund, but I think he was very sneaky. I do not think he actually pointed out to anyone that veterans' children who receive assistance under the Veterans' Children Education Scheme and the Military Rehabilitation and Compensation Act Education and Training Scheme would lose their annual payment of about $215 a year. I do not think they knocked on anyone's door and said, 'If you're a child of veteran, you will lose this money.' So I think there has been a sleight of hand and a bit of sneakiness going on in regard to this issue.

I think Mr Abbott needs to explain why he is doing this and why he is cutting these payments. As I said, it contrasts quite a lot with a number of other issues—certainly with the
government's willingness to pursue a generous paid parental leave scheme offering payments up to $75,000. The annual cost of payments to veterans' children is less than the cost of providing four high-income earners with paid parental leave under Mr Abbott's proposed scheme. Why does the Prime Minister think that four women on higher salaries are more important and more worthy than 1,200 children of war veterans? I just do not get it. I think there are a lot on the other side who are probably embarrassed by this. I can tell you that, if I were on that side and my government had done something like this, I would be more than embarrassed; I would be taking it up to the leader and getting them to change their mind on it.

A number of people have made comment in regard to it. The Executive Director of the Defence Force Welfare Association, Mr Alf Jaugietis, said—and I quote—that he "was "bloody stunned" and would seek clarification from the minister's office over the decision'. He also said:

… to target kids, and only about 1,200 of them, over something that costs so little, seems … petty to us …

Even that interesting person over in the other place, the member for Fairfax, Mr Clive Palmer, 'foreshadowed an obstacle to the government's repeal of the mining tax', declaring that it will not come at the expense of income support to orphan children or war veterans. The payment to veterans' children—which has an overall price tag for the government, as I said, of $250,000, give or take a few dollars—is to be one of the casualties, I think, of the mining tax repeal package. Mr Palmer 'threatened to block the repeal if the payments are axed', so he was very serious about it. He told Radio National on Thursday:

They'll just have to take it out or they won't have any change …

Mr Palmer also said that he thought scrapping the payment was 'a crazy thing to do'. The New South Wales RSL president, Don Rowe, also publicly stated his absolute disgust with the decision. He described it as 'mean-spirited' and 'a mean penny-pinching exercise'.

This is a callous act from the Abbott government; there are no two ways about it. I think coalition MPs and senators need to decide whether they will support the children of ADF veterans or they will back Tony Abbott's callous cuts to the assistance these children so richly deserve. They need to be, as I said, standing up to Tony Abbott on behalf of the children of war veterans, not voting to cut their payments.

In summing up today, I am so flabbergasted by this that I really find it a bit hard to put into words what I really feel because I know I probably need to watch my language, and it might get away from me if I do not contain myself. It is unexplainable to me why the government would go down this road. It is completely incomprehensible—

Senator Urquhart interjecting—

Senator BILYK: Thank you, Senator Urquhart, it is. It is completely incomprehensible. It is mean. It is nasty. It is callous. The adjectives could go on, and I probably would never end the adjectives about what I think about this case, but I strongly believe that the families of our veterans deserve the respect and gratitude that we should give them. I do not think they should be insulted by callous acts like this. I also firmly believe that we have the responsibility to support those children.

To anyone in this room, I would imagine that $215 a year is probably not that much money. I am sure someone on that side will probably say how many milkshakes or cups of...
coffee you could buy with it, because that has been known to be said before about the cutting of funding. It is not that much money. This issue has been so callously brought on, and Mr Abbott is so firm and so determined not to backtrack, because he made this promise to repeal the MRRT. Well, Mr Abbott, you are going to have to do something. It is not on. This is not what Australia is about. This is not the Australian way.

I think we all have the responsibility to support those children, whose fathers and mothers have given their lives for our country, so I urge those on the other side to really take it up to Mr Abbott. I am not sure when their next caucus with him is, but I would be getting on the phone if I were some of those people on the other side. I know they are not all hard hearted and callous on the other side. I have worked for six years with most of those on the other side, and I have spent a lot of time with some of them. Some of those on the other side I can get on quite well. So I know they are not—

Senator Farrell interjecting—

Senator BILYK: Did you say 'name them', Senator Farrell? No, I will not do that because it might put them—

Senator Kroger interjecting—

Senator BILYK: Oh, Senator Kroger wants to be named! Senator Kroger, if you want to be named, you go and take this up to Mr Abbott and you get him to change his mind, because I think it is really, really important that those on your side who do have a heart point out the minuscule amount of money involved, which is such a help to those children and those families. I will end it there, but I really did just want to get up—I have said more than a few words—and participate in this discussion because to me it is so important.

Senator LINES (Western Australia) (17:58): I rise today in support of these two disallowance motions. I rise as the daughter of a veteran who served as a commando on the Kokoda Trail. My father, now almost 92, has carried shrapnel embedded in and scattered throughout his shoulder and back for more than 70 years. I can tell you as his child that those scars that my father carried were not just carried in his back. He gave his youth for the service of Australia. He gave his youth fighting on the Kokoda Trail. So Legacy and the RSL, when I was a child, played a very, very important role in my life.

I go on now to talk about the current situation. I cannot imagine a more callous act from a government than taking such a small amount away from veterans' children. I was fortunate. My father came home from the war and went on to get married and have children, but that legacy of the years that he gave fighting as a soldier for Australia impacted on our family life. I cannot imagine the impact that losing a key loved one would have on a family. My father's injuries had an impact on our lives. When you kiss your loved one goodbye and then they do not come home, because they have given their life for Australia, the impact would be enormous. For the Abbott government to take money from the children of war veterans is absolutely shameful; and it is even more shameful because it is such a small amount of money for the government. But it is a significant amount of money for a family, because it helps with shoes, books or tertiary fees, and it is a tiny, little recognition that the parent's death meant something to the broader Australian community.

Again we have seen a government that simply cannot speak the truth, because last week the Prime Minister told my colleagues in the other place, 'No specific payments to veterans'
families are being cut.' We know that is just not true. That is just not true. The Prime Minister can continue on saying, as much as he likes, that he has retained some of these schemes and that he has consulted with stakeholders on this issue. Fortunately for me, my father came home. But the families of mates of my father who did not come home relied on a bonus, a payment from the government, for their lost father; in most cases it was a father. Young Australians who were expecting to have some of their educational expenses met will now have to find the money for uni books or for fees to help fund their education or training out of their own pockets. Again I suspect that Legacy and the RSL will step up, but it is not appropriate for those organisations to be expected by the Abbott government to step up and fund such a minuscule payment.

The shadow minister for families and payments, Jenny Macklin, specifically asked the Prime Minister on 18 March precisely where and when the Prime Minister announced that this specific payment to the widows and orphans of war veterans would be cut. Despite the Prime Minister saying that he consulted widely with stakeholders, the RSL were not aware of this cut. Legacy is pleading with the government to reconsider. Young Western Australians were not consulted. They were not told that the cost of the assistance was the same as giving just four high-income earners the Prime Minister's extravagant and unfair Paid Parental Leave scheme. I would be ashamed as an Australian to think that we had cut this payment of $211 and a few cents per year to fund an extravagant parental leave scheme. I would be absolutely ashamed if we were to take that money from the children of veterans and give it to people who have still got a mum and dad in their family—people who have not suffered the ravages of war and who have not suffered a horrific and tragic death in their families. That would be the ultimate injustice.

The Prime Minister keeps telling us, 'If you want to fix the economy you've got to fix the budget first.' I am aware of the arguments from the other side—that this income support bonus was expected to be funded by the minerals resource rent tax and, without the MRRT, the government can no longer afford to supplement the income of the children of veterans—including some who are homeless. What rubbish, what nonsense and what selfishness to take away such a small payment, $211.20—a very, very small payment in the budget of a government but a payment that would really make a difference in the lives of the families of veterans.

This is nothing but bullying by the Abbott government. It is the bullying of a handful of children—just 1,200 children. For the Abbott government to say that it plays any reasonable part in fixing the budget whilst retaining the gold-plated parental leave scheme is just insulting. I would challenge the Prime Minister to stand up before one of the children from whom he is taking this benefit and explain why he is doing that. In my view, it amounts to reverse class warfare. And to be so unapologetic is callous. The cost of providing this assistance—as we have heard senator after senator say in this place today—is just under $254,000 a year. It is a sad day when the government puts their pledge to have the budget in surplus ahead of the welfare of children of veterans who have made the ultimate sacrifice for their country.

Dave Spillman, President of the Kwinana Branch of the RSL in Western Australia said:
We’re shocked the Prime Minister would cut something that helps the kids of RSL members like this. When Western Australians fight for Australia, get injured for Australia and die for Australia, we don’t
think it’s too much to ask for their kids to get a helping hand. The armed services are important in Western Australia and the Prime Minister should remember that. We call on Prime Minister Abbott to reverse this decision.

Presumably the RSL is the major stakeholder, but obviously they were not consulted. It certainly does not sound like the Kwinana branch or Dave Spillman or any of the executives in Western Australia were consulted. I agree with the RSL on this matter. As the child of a veteran, I can understand how they feel. But I too am absolutely disgusted with the government's decision. This cut is unnecessary, and $254,000 will not achieve the budget surplus the government believes the country so desperately needs.

Where are the government's priorities? I don't believe that if you want to fix the economy you have to fix the budget first. As a West Australian, I can think of a number of things we need before we need a budget surplus. How about a fast, efficient rail network? The RAC tells us in Western Australia that congestion is a massive cost to business. What about some roads that were promised linking eastern suburbs such as Ellenbrook and the Swan Valley? How about addressing the high cost of housing in Western Australia? What is the Prime Minister's answer when parents ask why schools in WA are not equal, why school performance is dependent on postcode and not funding and why some WA students exit school barely literate? The Prime Minister does not have an answer; the Abbott government cannot look WA parents in the eyes as it has no plan.

If the government places a priority on getting to surplus ahead of these matters and cannot even put aside $260,000 to help the families of those who have put their lives on the line for our country to gain access to education, how will it ever prioritise every other issue for Western Australians? My father gave his youth to this country serving as a commando on the Kokoda Trail. Thankfully, he came home, but for those children and those partners who lose their loved ones, taking this minuscule amount of money away from children who have suffered the most unimaginable loss is absolutely unthinkable and mean-spirited.

Senator FARRELL (South Australia) (18:09): It would appear that there are no further speakers from the government side. I would like to close the debate and thank those senators who spoke in support of this motion, Senator Wright from the Greens and Senators Conroy, Bilyk and Lines, who all made terrific contributions. I hope that the speeches that I and my colleagues made have been sufficient to change the cold-hearted approach of the government in respect of this matter. I strongly urge senators opposite to join us and reject the Prime Minister's penny-pinching ways in respect of this matter and support our disallowance motion.

Question agreed to.

BUSINESS

Rearrangement

Senator NASH (New South Wales—Deputy Leader of The Nationals in the Senate and Assistant Minister for Health) (18:11): I move:

That government business order of the day no. 3 (Private Health Insurance Legislation Amendment Bill 2013) be postponed to a later hour.

Question agreed to.
Senator STEPHENS (New South Wales) (18:11): I rise this evening to contribute to this debate on the appropriation bills and I really want to focus, have had the discussion earlier today about the reforms to FoFA being proposed by the government, to revisit an issue that I raised earlier today, and that is the role of the financial services industry in the administration of charitable trusts. Coincidentally, just a year ago I raised this issue in the Senate, because the administration of charitable trusts is quite fundamental to many Australian charities.

Just over a year ago the Parliamentary Secretary to the Treasurer referred the issue of regulation of certain aspects of activities of trustee companies under the Corporations Act 2001, particularly the fees they charge charitable trusts and the accountability and portability of their services. He referred those issues to the Corporations and Markets Advisory Committee, CAMAC, which is a very important advisory arm to the government of the day. It provides independent advice on issues that arise in corporations and financial markets law and practice. Corporations Law we would think is a pretty long way away from the day-to-day operations of local charities, but in this instance Corporations Law is impacting in a very real way on the invaluable work of the charitable organisations that we will rely on to build and strengthen our communities.

So the parliamentary secretary sought advice on the range of additional fees beyond those regulated under the act that are or could be charged by professional trustee companies; the effectiveness of the regulation of the new arrangements between professional trustee companies and a trust; the effectiveness of grandfathering existing fee arrangements; and what the current position is with regard to the removal and replacement of a trustee of a charitable trust, whether this position is unsatisfactory from a consumer protection perspective, and if so what, if any, reforms are necessary to address this. Finally, he encouraged the committee to bring to the attention of government any other issues that impact on the objectives of that 2001 act on the charitable purposes of trusts.

So what does that all mean? The previous government was committed to strengthening our communities by enhancing the work of charitable organisations. We have spoken many times about the opportunity and purpose of growing the culture of giving in Australia. The previous government had made very significant commitments to improving the regulatory environment in relation to philanthropy, with some very interesting consequences. An expert in philanthropy, Ms Elizabeth Cham, wrote in 2009:

Australian philanthropy has had a pervasive impact on society but it is largely invisible. Nothing illustrates this more starkly than the total absence of attention paid to, or discussion about, a landmark act that was passed by the Commonwealth parliament under which the Commonwealth assumed responsibility for the regulation of the traditional services of trustee companies.
You would be more interested if you understood that one consequence of this could be a transfer each year of potentially up to about $23 million from the amount available for grants to the not-for-profit sector into administrative fees of trustee companies. It also alters the fee structure of perpetual charity trusts. Historically, they have been charged five to six per cent of income. Under the new regime, they will be charged up to 1.056 per cent of capital. The impact on a foundation with a capital base of, say, $50 million will be a fee increase from $131,840 to $528,000. So I think that you can see the dead hand of the Financial Services Council in what has happened in this space, just as we have seen the dead hand of the Financial Services Council on the FoFA reforms.

I was very disturbed when I absorbed this information. Like many of my colleagues, I did not realise the extent of the fees that come out of the moneys left by generous dead individuals and families on the understanding that the trust or foundation would be maintained in perpetuity for the benefit of those most disadvantaged in the community. Ironically, of course, the founders are no longer there to advocate on their own behalf and most have no independent trustees to challenge fee increases. This means that trustee companies are now the sole trustees for the great majority of trusts and foundations they administer. In practice, the for-profit arm of these companies tells itself, as the sole trustee of a charitable trust, that its fees will be increased. So you can begin to understand why the government is ready to review the legislation, which has now been in operation for two years.

At the time, I for one was quite disturbed about what happened and, like most of my colleagues, did not realise the extent of the fees that come out of the moneys left by generous dead individuals and families on the understanding that the trust or foundation would be maintained in perpetuity for the benefit of those most disadvantaged in the community. Ironically, of course, the founders are no longer there to advocate on their own behalf and most have no independent trustees to challenge fee increases. This means that trustee companies are now the sole trustees for the great majority of trusts and foundations they administer. In practice, this means that the for-profit arm of these companies tells itself that, as the sole trustee of a charitable trust, its fees will be increased. So you can begin to understand why the previous government was ready to review the legislation—which, at the time, had been in operation for two years. It has now been in operation for three.

Before I go to the report of the committee—which has yet to see the light of day—let me explain a little bit more about trustee companies and their significance for philanthropy and the not-for-profit sector. First of all, trustee companies are actually a uniquely Australian invention and, until the deregulation of the Australian financial sector in the 1980s, were somewhat old-fashioned entities established by gentlemen for gentlemen. Their initial role was to manage the assets of wealthy individuals when they travelled abroad for, very often, lengthy periods. Later, that was extended to managing deceased estates—some of which established perpetual charitable foundations. The trustee companies were seen as particularly suited for this because they had financial expertise and were perpetual organisations.

Trustee companies manage some of Australia's most valuable and significant cultural, medical and scientific awards and prizes, including the Miles Franklin Literary Award, the Patrick White Literary Award and the Ramaciotti medal for medicine. They also administer some of Australia's oldest foundations and bequests, such as the Alfred Felton Bequest established in 1904, and more recent ones like the Shane Warne Foundation.
Today, Australian trustee companies are the largest administrators of charitable trusts and foundations, usually as the sole trustee. They manage about 2,000 charitable trusts and foundations, with assets of approximately $3.3 billion—although that was at the time. In the report to CAMAC, the figures are mind-blowingly more. I will quote from the report which shows how significant these are. The report says that the organisations are:

… the sole trustee or co-trustee of some 1500 charitable trusts, with a combined capitalisation of approximately $3.4 billion. The FSC estimates that the entire charitable trust sector is valued at around $7 billion. The FSC has further indicated that (excluding charitable trusts that are PAFs—

private ancillary funds—
or PuAFs—

public ancillary funds—

administered by LTCs) LTCs, on average, distribute annual trust income amounts equivalent to 4-6% of the total capital value of the charitable trusts that they administer.

So this is a very significant sector, where the Financial Services Council has been having a significant influence for a long period of time.

The Corporations and Markets Advisory Committee, having been given that reference early in 2013, had as one of its challenges a consultation process that included calling for submissions. The committee received six submissions, including one from the Charitable Alliance, which is an alliance of concerned trustees, advisers to and stakeholders of charitable trust foundations, which provides significant financial support to communities across Australia. That submission made a series of recommendations related to reforming fees and prices, governance, transparency, portability and the issue of orphan trusts. The other submissions, with the exception of the Financial Services Council's own submission, supported the call for radical change in the interests of the charitable trust sector. Unsurprisingly, the Financial Services Council disagreed with those recommendations.

CAMAC had been due to have round table discussion, which was cancelled at the last minute because of the withdrawal of the Financial Services Council. So CAMAC then had to move to establish a new round table with interested parties and work out how this oversight could be part and parcel of the role of the new ACNC, the Australian Charities and Not-for-profits Commission.

I will go now to the report, and the recommendations of this very senior advisory body are twofold. Firstly, CAMAC recommends that:

… the ACNC implement, or co-ordinate, Stewardship audits of a cross-section of charitable trusts administered by LTCs—

that is, licensed trustee companies. The recommendation continues:

The purpose of the audits would be to obtain information on how LTCs have performed their administrative responsibilities in the context of the philanthropic and benevolent purposes of these trusts.

So the issue of stewardship audits was a very significant reform. They took up the recommendations of the submitters to the inquiry and considered the concerns that were raised across the board. The stewardship audits that were recommended included things such as, the report says:
the level, and type, of active administration employed, including the history of investments and distributions and investment management practices

the relationship between the trustees of co-trustee trusts, including how any disputes between them have been resolved

how the concept of traditional services has been interpreted and applied in practice, in particular the range of activities that LTCs consider come within/outside the scope of that concept

the types and quantum of fees and other costs charged against the trust, including what fees and costs LTCs treat as coming within/outside the concept of traditional services (and therefore as coming within/outside those regulated under Part 5D.3 of the Corporations Act)

the method of valuation of the assets of the trust (for fee and other purposes) and the extent of involvement of any independent external party in that valuation exercise

the nature of any investment-related services in operating the trust (beyond investments in common funds) and the costing arrangements for those services

what services are outsourced, for what reasons, and the costing arrangements for these services

the extent to which the trust has received identifiable value for the various fees and costs charged against the trust

the nature and extent of any conflicts of interest that have arisen in the administration of charitable trusts

the extent to which the benevolent and philanthropic objectives of the trust have been achieved, including the implementation strategies that have been employed.

And the CAMAC report says:

The views of donees on relevant matters should also be sought, where appropriate.

So you can see that that is a far-reaching recommendation by the advisory council to initiate this concept of stewardship audits.

As soon as those recommendations were made public, the Financial Services Council went into overdrive to do whatever it took to advocate that these changes were not implemented, despite the recognition by the Corporations and Markets Advisory Committee that this level of transparency was required for both donors and the philanthropic community to have confidence about the way in which this significant part of the charitable sector was being administered.

CAMAC proposed that:

… Stewardship audits be conducted or co-ordinated by the ACNC, with the trusts included for audit being selected by the ACNC or the party it appoints to conduct the audits.

It was anticipated that:

… participation in Stewardship audits would be on a voluntary basis.

Use by a regulator of investigative powers to conduct the audits was seen to be inappropriate, because it was not suggested that there was any deliberate evidence of improper conduct; it was about improving the processes of transparency. This was the crux of the CAMAC proposal, and, with it, came the notion that, by conducting stewardship audits, it could delay what some of the submissions were actually looking for: a more pressing and urgent regulatory reform. So CAMAC came down on the side of caution, on the side of a light-touch
approach—a stewardship audit which would improve best practice of the management of these trusts and the activities of the licensed trustee companies.

Also in the CAMAC's report is a consideration of a review of a range of alternative approaches to trustee fees, which was suggested again in the submissions. CAMAC proposed that:

... fees and costs charged against a charitable trust be subject to a requirement that they be fair and reasonable—
something that all of us would think was fair and reasonable—

with an extended power of the court to deal with disputes alleging the charging of excessive fees or costs.

Well, the Financial Services Council has indicated that this was not something that they wanted to engage in. From the time of these recommendations being presented in the May 2013 report they actively began advocating and systematically campaigning for rejection of the recommendations that would see them be much more accountable and having to justify to philanthropic organisations around the fees and charges that they were charging, but also those that would make them accountable through the activities and oversight of the Australian Charities and Not-for-profits Commission. Therein lies the story about the fundamental shift to ensure that the coalition government persists in unravelling the ACMC.

Fundamentally, it is the influence of the Financial Services Council to ensure that they are not subject to greater oversight and this, for me, is a hugely important issue. It is about the gouging of fees from trustee accounts and philanthropic foundations, where there is no capacity for anyone to challenge the management of those trusts and there is no capacity for people to even shift from one trustee company to another. People may not realise that if you are subject to the public trustee—if someone's estate has been taken over by the public trustee—there is no capacity for beneficiaries of that trust to challenge the management of the trust and move it to some other organisation that might be prepared to manage the trust in a more transparent, fair and reasonable way.

We have seen the FoFA reforms and we have seen the Financial Services Council move to advocate in every way that it can for less accountability and less transparency. This issue about the administration of charitable trusts is something that will become a national shame if we do not focus on getting it right. The Corporations and Markets Advisory Committee is a professional, legal support to the government, and its advice should be adhered to.

Senator STERLE (Western Australia) (18:31): It is always a pleasure to follow my colleague and friend Senator Stephens. She worries about one word; I have days where I forget whole topics. We will see how I go at this late hour. I too rise to speak tonight on the Appropriations Parliamentary Departments Bill No. 2 2013-14, the Appropriations Bill No. 3 and Appropriations Bill No. 4. Before I get to the core of my comments, I have to say that I am having an exciting week and it is only Tuesday. Not a lot of things excite me, but I have to tell you, Mr Deputy President, it has been all about Western Australia this week and I have clearly thoroughly enjoyed the contributions, particularly from senators on the other side from South Australia, New South Wales, Tasmania, Queensland, Victoria. And there was a contribution from the Minister for Finance, Senator Cormann, who has now picked up the portfolio of Assistant Treasurer as well.
Senator Nash: You must not forget Senator Cash.

Senator STERLE: I will take that interjection from Senator Nash, for whom I have the greatest respect. We have worked together very closely for six years, but she has decided to run off to have another life as minister. Congratulations, Senator Nash. Senator Cash is always exciting—there is no argument about that. I know that, when we were in government, Prime Minister Gillard used to worry about what came out of my mouth sometimes, but Senator Cash leaves me for dead. She is a beauty! I mean that sincerely.

I want to talk about Senator Cormann's contributions today and for the last couple of days. We are talking about finance and we are talking about appropriations. Last year when we went to the federal election the current government made it very clear that they wanted to make massive changes to Labor's FoFA legislation—Future of Financial Advice legislation. We had taken serious action because we had seen some shocking developments with major collapses of financial advisory corporations, namely Westpoint. A number of Western Australians were caught up in that. They and other Australians were blistered—that is the only word I can find to describe it—by devious people who should have been locked up much earlier than they were. There were losses of up to about $312 million through very shady deals. We also remember the collapse of Storm Financial almost five years ago—a disastrous part of our mostly proud history. That unfortunately was not a proud bit.

We believe the financial advisory industry has a role to play. There is no doubt about that. But, sadly, there are some very shady characters—I will go so far as to call them crooks—who should not be in the industry. Unfortunately, you have some in every industry. They saw their way to garnering huge rewards from pushing certain products that did not suit their clients' needs. They got rich; the other poor devils lost their money. Hence, we put in some tight legislation. It irks me to think that the current government is doing everything it can to overturn it. Why would you want to overturn the protection of people's savings? The only reason I can find—and I will stand corrected if I am wrong—is some sort of payback to mates, though I am not too sure. I did touch on this earlier today and I would like to touch on it again because I think it is essential for those who may be seeking financial advice or those who may be wondering what the heck is going on with the backflips on some regulations from the other side of the chamber. I am touching on it again because this time it will be without the constant interjections and chatter from those opposite who are sent in to make a lot of noise and put off speakers in the hope that the message does not get out. Mr Deputy President, you know that I do not act like that. I would much prefer to have an informed debate and be heard by both sides.

I must quote from a piece in today's Australian Financial Review written by that well-respected and highly regarded journalist Philip Coorey. It talks about the backflip from Senator Cormann on the FoFA regulations. It says:

It is too early to describe the FoFA freeze as a backdown but it could end up that way. Finance Minister Mathias Cormann says he intends to legislate for the policy as promised before the election, just that it would be better to have all the interest groups in agreement first.

What we have seen is a massive backlash in large parts of the community from people seeking finance, from pensioners and from community groups who are absolutely furious that this would overturn the tight legislation that was put in to protect people from bad advice, or
just crooked advice—if I could put it any other way I would, but I cannot think of another way. Going back to the article from Mr Coorey, it states that Minister Cormann:

… who designed the FoFA changes in opposition, is hardly signalling a rousing endorsement of stood-aside assistant treasurer Arthur Sinodinos.

It was Sinodinos's job to box the changes into shape, present them as regulations and legislation, consult the stakeholders and let fly.

By Cormann's own admission, the stakeholders are largely opposed to what the government is proposing.

He believes this to be more the product of misunderstanding and sloppy reporting than anything the government has done.

Every Western Australian listening should be very well aware of what our Minister for Finance, who is Western Australia based, actually means. In question time today in this chamber, he said—and, if I am wrong, he can challenge me anywhere he likes—that he was new to it and so he could not answers questions from, I think, Senator Dastyari and Senator Bishop in relation to why things changed, and he left it at that. Somebody is not telling the truth, because Mr Coorey clearly said that in opposition this was Minister Cormann's baby, that he developed it.

I refer now to another article in The Australian Financial Review in Chanticleer with the headline 'Cormann makes a clean break'. It states:

Sinodinos bungled the financial advice reforms by putting too much emphasis on cutting red tape and too little on what it would mean for consumers.

Where I am coming to with this is that we are still waiting for the National Commission of Audit report. I want to make that clear so there is no confusion.

I want to go to one more article that Western Australians must be well aware of. It is also from The Australian Financial Review and Sally Patten is the reporter. In the article, she says: Commonwealth Bank of Australia revealed in September last year that it had stopped putting in place systems that would have enabled its advisers to sign fresh contracts with clients every two years, a measure Senator Cormann has been keen to drop.

The government may also come under pressure to either obtain industry consensus—Well, we hope. Where I am leading to is that there was going to be a commission of audit where the belt would have to be tightened and a lot of promises might not be kept. It is my belief that something is not right here. Everyone wants to talk about us Western Australians this week, so why can't we have the report of the Commission of Audit? Why is it so secretive? It has been ready now for a couple of weeks, but it cannot be released. Some may think that because there is a Western Australia Senate election Saturday week on 5 April—and I have no proof because I have seen nothing—there might be some bad news in it not only for West Aussies but for every single Australian.

I now turn to another aspect that has given me much grief over the last few months. I have shared it with as many people as I can, but I would like to share it again now because I have not yet had the opportunity here. On Sunday, 17 February last year, the Hon. Tony Abbott as opposition leader visited Western Australia. I am told he had a Liberal Party campaign rally in Perth—so he was there to gee up the troops. I will read from a media release from the ABC; there is no stunt here. He told the crowd that 'he hopes to model his government on Premier
Colin Barnett’. When I put that to some Western Australians in this place, no-one denied it. In fact, one of the good senators from Western Australia shook his head in agreement, so I am not making anything up. The article says of the then opposition leader and now Prime Minister Mr Abbott:

He says he has learned a lot from Mr Barnett, describing his government as a model he hopes to repeat in Canberra.

The party faithful thought, 'You beauty!' Bear in mind that February last year was one month before the Western Australia state election. So just under a month later, we went to a Western Australian state election where Mr Barnett was returned with a majority of more seats than he had in the previous government. He had received a glowing endorsement from a lot of Western Australians—not me, of course—that they wanted him as their Premier. This would have excited Mr Abbott because he wanted to model himself on Mr Barnett's government.

What happened between 14 March and a month later? Mr Barnett went to the election telling all Western Australians to tighten their belts, that it was time for fiscal responsibility, that there was not a lot of money to throw around and that they wanted to contain pay rises through the public sector. I think the figure was a modest three per cent or something like that.

But—lo and behold!—about three or four weeks after the election, this wonderful article came out in Perth and talked about Mr Barnett's adviser Dixie Marshall's pay rise. You can see the nervousness that I want to share with every Western Australian, because there is a Senate election coming. I am not scared to talk about it. If Mr Abbott wants to model himself on Mr Barnett—uh, oh! Nothing was said about this, but a pay rise of $84,534—I am not making this up; I do wear glasses, but this is very clear—brings Ms Marshall's pay packet to $245,000 a year. This is why we have to be very careful. We are being told by Mr Hockey and Mr Abbott that we have got to tighten the belt, and we are also being denied access to the audit. What have they got to hide?

Government senators interjecting—

**Senator STERLE:** I notice the chirping starting. You will all have your turn, because I want to know if you know something I do not. But West Aussies need to be very nervous if Mr Abbott models himself on Mr Barnett and wants a repeat of his government in Canberra. I am getting a horrible feeling here. How can you get an $84,000 pay rise to take your pay up to $245,000 when you are the Premier's media adviser?

There was also another pay rise that smacked through that there was no mention about before the election. It was to a Ms Cant. I do not know Ms Cant, but it says in this article that she is a long-time ally and director of government strategy. She got a pay rise of $52,963. This is absolutely disgusting and disgraceful. If you had the intestinal fortitude to go to the election and say that you were going to deliver these pay rises, maybe then I would be wrong and would not be talking about it.

But—do you know what?—I have absolute faith in the political system in Western Australia. It has just brought me back to the pack, because I have been a little bit unfair. You see, the Liberal members of the government over there in WA—and I am reading from the *PerthNow* article—were really annoyed. It says here that it caused 'furore amongst Liberal MPs' that wage rises like that could be awarded to two political advisers. There was no
mention about it before the election. Western Australians are being told to tighten their belts. You know why there was furore? Because they said they believed they too should receive the big pay rises and then got cranky because their pays are set by the Salaries and Allowances Tribunal. I have got faith; I am back on. No worries.

You can see why we have the Prime Minister wanting to model himself on Mr Barnett. There are more reasons for fear. Let me tell you of another really dangerous situation that will occur if Mr Abbott reflects Mr Barnett. He has already started to reflect Mr Barnett. It will be cuts to education. My, my, my! In that great state of Western Australia there was no mention of the cuts that were coming to education. I have to share this with you. It may bore some over there. I see Senator Bernardi is yawning. It may bore him because he is not up for election and so he is sitting there feeling very cocky. But it does not bore me that $183 million has been taken out of Western Australian state schools. I know I am on a high horse here, because this is something that I am absolutely passionate about. I am actually honoured to be the patron of the Darling Range Sports College in Forrestfield in Mr Wyatt's federal electorate of Hasluck. It may sound very flash, but its previous name was Forrestfield Senior High School. It is a really good, knockabout, low socioeconomic public school, and it is not awash with the cash that you find at private schools. It had its funding cut by no less than $379,268.

Senator Bernardi interjecting—

Senator STERLE: That is absolutely frightening. It has an Aboriginal population of about eight per cent too. It is not cashed up like maybe the school you went to was, Senator Bernardi.

But while we are talking about good knockabout public schools, I want to talk about my old school, Thornlie Senior High School, also in the same electorate. Their funding has been cut by $435,000. I have examples of primary schools in the same electorate—primary schools, for crying out loud! Here is one. Forest Crescent Primary School in Thornlie has had $230,885 cut from their funding.

Senator Gallacher: Did you go to high school?

Senator STERLE: I did go to high school. I actually did. I was there, Senator Gallacher.

Debate interrupted.

DOCUENTS

The DEPUTY PRESIDENT: Order! It being 6.50 pm, the Senate will proceed to the consideration of government documents.

Sugar Research and Development Corporation

Senator IAN MACDONALD (Queensland) (18:50): I move:

That the Senate take note of the final report of the Sugar Research and Development Corporation.

For many years the Sugar Research and Development Corporation has done magnificent work in research, science and development of Australia's sugar industry. The sugar industry has been a magnificent contributor to the economy of Australia, particularly in my home state of Queensland, for over 100 years. Back when the SRDC was set up, it was envisaged that it would provide additional scientific work towards the sugar industry and help in its ongoing development. That it has been successful is evident from the pre-eminent position the sugar
industry holds in Australia's primary industries at the present time. As a result of rearrangements last year, the Sugar Research and Development Corporation was, by the vote of its constituent members, agreed to be wound down. This was then supported by government legislation, which you might recall passed through in the dying minutes of the last parliament and the last government.

The proposal for the new agency to replace the SRDC was that the SRDC and the industry's key research provider, the Bureau of Sugar of Experiments Station Ltd, would be wound together to form a single entity called Sugar Research Australia. It was also proposed that the research coordination activities undertaken by the milling arm of the industry, the milling research consulting body in Sugar Research Ltd, be transferred. The industry decided to bring all elements of research and development, both growers and millers, into one new group—Sugar Research Australia. This organisation commenced operations towards the end of last year.

I look forward to watching the progress of the new organisation and, more importantly, seeing what that organisation does for the ongoing support of, as I say, one of Australia's major primary industries—an industry which has earned billions of export dollars for Australia over the years, which employs hundreds of thousands of people and, indeed, which supports a lot of regional communities up the coast of Queensland and a little bit inland, too, including my home district of the Burdekin and the town of Ayr, where I come from.

I particularly want to take note of this report of the SRDC being its absolutely last report and pay tribute to all of those who have worked with the Sugar Research and Development Corporation over the years, since its inception. The last chairman of the SRDC was the Hon. Ian Causley, whom many in this building will remember as a distinguished member of the other place for many years. Mr Causley was the last in a long line of very significant chairmen of that board who have made a major contribution to the sugar industry.

In talking to this report, I want to simply thank all of those who over the years have made the sugar industry what it is today, and that includes members of the board and staff of the research organisation. In fact, it includes everyone in the sugar industry from mill managers, mill workers and cane farmers to truck drivers and harvester drivers—all those who work the cane farms. Over the years they have contributed to making this a wonderful industry that has meant so much to my state of Queensland. I congratulate all of them on the work they have done during the term of the SRDC, and I wish Sugar Research Australia all the very best in the important role it takes on following the closure of the SRDC.

Question agreed to.

**ADJOURNMENT**

**The DEPUTY PRESIDENT** (18:55): Order! There being no further consideration of government documents, I propose the question:

That the Senate do now adjourn.

**Curran, Mr Wally**

**Senator McEWEN** (South Australia—Opposition Whip in the Senate) (18:55): I seek leave to incorporate Senator Carr's speech.

Leave granted.
Senator KIM CARR (Victoria) (18:55): The incorporated speech read as follows—

In 1891 George Black delivered one of the most lasting definitions of labour politics.

Our goal, he said, was to 'make and unmake social conditions'. This was the mission of the late, great Wally Curran. And he gave it one hell of a crack.

I pay tribute to him today as a great Australian and legend of the labour movement; a man of principle and character; generous of spirit, large in imagination, and unstinting in his service to the cause.

This was a man who helped shape a generation of labour activists - and in so doing, helped to reshape politics and industry in this country

Wally Curran: the boy from the boning room, born on Butcher's Picnic Day, the 20th January, in 1932.

To his opponents - and they were many - Wally was always something of an enigma.

They simply couldn't square his great intellect and learning with what they saw as his humble roots.

And the collars don't come much bluer than Wally's.

Born in Williamstown in the Great Depression, his mother was a factory worker and his father was a slaughterman.

Wally grew up with the 'professional fishermen' - or poachers - on the docks.

When he turned 14, his mother told him to find a job, or she'd find one for him. So Wally left Williamstown Tech at 14 and worked in the woollen mills and on the Williamstown Docks.

Then he got a job as a labourer in the local meatworks. There, he worked 16 hour shifts, for precious little pay, in appalling conditions.

Injuries on the job were common. The work was hard and physical. He was an adult before he had the time to be a child.

But these conditions did not make him bitter or resentful. They steeled him for the fight that would define his life.

The fight for dignity at work and justice for working people.

The fight for the opportunities and richer life that people of his class were denied.

And the greatest mistake of his enemies was to underestimate what this man could do.

For four decades he served the Australasian Meat Industry Employees' Union and its members faithfully.

He was Assistant Secretary of the Victorian Branch, for 18 years; and Secretary for another 24.

Wally's industrial tactics were creative. He argued that people who criticised the AMIEU didn't understand it.

"It's free and democratic" he used to say. "That's how the members arrive at their decisions, and then they proceed in a disciplined way."

His views are captured in a short story he wrote about the experience on the picket line.

"The picket was good humoured, peaceful, and marked by a sense of comradeship and belief in the right to take action and protect our jobs.

"This was, after all, Australia, and not some bloody sheikdom that relied on rule by force. We had the right to strike, the right to organise, and that's what we were exercising on that wharf.

"Some picketers took up fishing, only to discover that the fish had been contaminated by the local oil refinery and tasted of kerosene. Talk about the oil company, and what multinational companies did to local environments, here and elsewhere in the world, then became a topic for serious discussion."
"Being on the picket line to defend our own real and very immediate interests created a sense of social responsibility and the need to take
notice of and action about a whole range of issues; that affected our lives and our future."
That larger vision - that empathy - were very much Wally's hallmark.
It was Wally Curran who took up the fight for equal pay for women in meatworks, later broadened to the entire manufacturing sector, when no-one else would touch it.
It was Wally Curran who championed an end to the Christmas sackings, the stand-downs without pay, the wretched insecurity that was for so long just accepted
It was Wally Curran who agitated for, and then implemented, the first Meat Industry Superannuation Fund.
It was Wally Curran who was instrumental in establishing the first Trade Union Clinic for workers; then secured funding for research into worker safety; and fought for the introduction of equipment that saved lives.
It was these contributions which earned him a Medal in the Order of Australia in 1997.
Through it all, he remained faithful to his class, contemptuous of bourgeois pretence, and true to the principles that fired him.
Wally made no secret of his red credentials.
He left the Labor party in the 1950s to join the Communist Party.
The training and intellectual involvement he found in the CP helped him succeed where others failed.
He returned to the Labor Party in the 1960s.
Here it is true that he favoured a much more comprehensive and radical political program than anything the Labor Party could offer.
But he matched that ambition with incredible political acumen - achieving a compromise that has always defined the labour movement at its best.
Industrially and politically, he knew when to set aside his ideological aspirations in order to reach a real-world settlement.
And he achieved so much. His influence could have a real impact on the fate of governments. His speeches made headlines. His counsel was sought by generations of Labor activists, and politicians.
He never held a formal position within the Labor Party, he never sought to be elected to a parliament, but he was never a 'faceless man'. And he never betrayed the union or its members.
Through all the turns of the political cycle, he stayed true to the labour cause and true to the people who put their faith in him.
Because people did put their faith in him — Premiers and Prime Ministers as well as men and women on the factory floor.
Perhaps Wally explained it best himself.
"People always came to me," he said. "I never went to them. I never sought any great riches or a seat in Parliament. I was never after any of that, so I never wanted anything from anybody else and I was never beholden to any other bastard."
And that was something else his opponents could never understand - Wally's politics of persuasion.
The Liberals, the Nationals, the Farmers' Federation and the conservative press threw bile at him for forty years.
They could not understand this man's influence and stature in the Labor Party.
They were flummoxed when Paul Keating turned to Wally for support. And Wally was well aware of it.

"In reflecting on my life," he said, in an article in The Age in 1993, "it is easy to see where I have gone wrong. I have been constantly reminded by the metropolitan and rural press, by the electronic media, by politicians and indeed, many others, that I am the cause of society's problems."

So what, as Shaun Carney asked in 1992, was so special about this man?

"Certainly," Mr Carney wrote, "he is abrasive, aggressive, selective to the point of capriciousness in his choice of journalists with whom he will speak.

"He delights in puncturing those he perceives have even a whiff of bourgeois pretension, which means that a lot of journalists get short shrift".

But Carney goes on to make an observation about Wally that will ring very true to those who knew him.

"Mr Curran appeals to Mr Keating," he wrote, "because he refuses to bow to the established order and because he has devoted his life to the labour movement.

"When Mr Keating visited Mr Curran looking for support, he was a man with a problem just like so many members of the Meat Industry Employees' Union.

"In helping Mr Keating, Mr Curran in one respect was just doing the job he has done since the 1960s."

Now as Wally would later say, after such a passionate embrace it was too much to expect that Mr Keating still respect the Left in the morning.

But for once he was wrong. To the end of his life, they remained in contact. Mr Keating continued to hold him in the highest regard.

And in any conflict, Wally was a formidable combatant.

He had a knowledge of human foibles and an intuitive understanding of people that couldn't be found in any ministerial brief.

And he would often sum up the health of a company long before the Stock Exchange was to know. One only has to think back to the meat substitution rackets of the 1970s and 80s, where companies that had denounced him as a ratbag - and worse - were later found to be engaged in organised crime. He was onto the crooks, and they didn't like it.

They were not just selling kangaroo meat to the Americans as beef - they were shipping arms around the country in meat-vans.

And when Wally spoke up, they accused him of single-handedly destroying the industry.

He was fearless and infuriating to his enemies.

On one particularly memorable occasion, he took to the stage at the right-wing Industrial Relations Society dinner, to share some choice observations on the Industrial Relations Commission of the day.

He accused this august body of 'lacking ability, obvious bias, hypocrisy, impropriety and incompetence.'

He further noted that productivity in the managerial classes would be greatly improved if the Melbourne Club closed earlier at lunchtime.

It was remarks such as these that got him referred to the DPP in 1991.

And amidst yet another round of calls for the AMIEU to be deregistered, the AFP finally concluded there was no cause to act.

Wally was always careful to cultivate his hard-bitten image. But you would be mistaken if you confused him with his public persona.
He believed in the rights of working class people to enjoy life in all its richness.
Not just a right to decent work for fair pay, and proper health and safety conditions, but also to participate in the arts, literature, and beautiful gardens.
To Wally, it was all the same struggle. He tried throughout his career to get his comrades to see the connections.
He himself was widely read, a keen potter, and a skilled gardener.
He was a very proud member of the Australia Council from 1974 to 1978 - reappointed by Malcolm Fraser — and a director of the Spoleto Festival.
It is hard to overstate the impact of having the Secretary of the Meatworkers on such an august body. And he was a humanist.
Who fought for the equal rights of migrant workers. Who judged you on your merits, not your accent.
Who helped me and many others at the darkest of times, with his comfort, friendship and counsel.
For all his public persona of toughness, he was a gentle, generous and compassionate man.
Even up to his final conscious moments, his concerns were with working people. We in the labour movement remember him with gratitude and pride.
Our thoughts are with his partner Kay Morrissey, his daughters Lisa and Cindy, and his two grandchildren, Lucy and Tia.
He left this world a far better place than he found it.

**Mining**

**Senator BERNARDI** (South Australia) (18:56): Last week a truly significant event took place in the history of this country, and I am disappointed that it received scant, if any, comment in this place. It is a slight that I seek to redress in some small measure this evening. This is a significant event not just for our national economy but also because I think it is the culmination of the incredible vision and hard work of one of Australia's most successful business builders, Mrs Gina Rinehart. It is a matter of some regret that Mrs Rinehart's extraordinary success is not more highly celebrated by members of parliament. Her deep and patriotic love for our country is continually demonstrated by her words, her deeds, her generosity and her investment in Australia and Australian business.

As a consequence of her business acumen, thousands upon thousands of Australians have jobs, our state and federal governments replenish their coffers and our country has a brighter future. Thanks to the events of last week, that future is now shining a little brighter still. The event I am referring to, of course, is the signing of the senior finance documentation for a funding package worth $7.2 billion to develop the Roy Hill iron ore mining project located in Western Australia's Pilbara region. This is a $10 billion project that is 70 per cent owned by an Australian company—Mrs Rinehart's Hancock Prospecting. It is the largest ever project financing from the development of a land based mining project world wide.

Quite frankly, in these tough economic times, this announcement should have us all cheering from the rooftops, not simply because when completed Roy Hill will be Australia's fourth largest iron ore producers, exporting some 55 million tonnes per year and creating over 2,000 permanent jobs, but because it already employs 2,500 people, which is expected to peak at 3,600 in the years ahead. To be fair, the important success of Mrs Rinehart's efforts have
been acknowledged by some diverse community leaders, including WA secretary to the Australian Workers Union, Stephen Price, who said:

Members and the workers there are very happy with the terms and conditions of the project.

I point out that it was also welcomed by WA Premier, Colin Barnett.

However, this success has come in the face of great adversity. The knockers said it could not be done. They attacked our most successful business person on the very basis of her success in taking a debt laden family company to create one of the most successful private enterprises anywhere on the planet. The critics conveniently forget the Hancock Prospecting story, which began with the birth of the late Lang Hancock in 1909 and the discovery of iron ore in 1953. There is no doubt that Lang Hancock was a pioneer, and he left an amazing legacy upon his death in 1992—coincidentally, the same year that his daughter, Mrs Gina Rinehart, conducted the first field testing of what is to become the Roy Hill mine.

The legacy that Mr Hancock left was not without challenges—financial and bureaucratic. What followed were two decades of Mrs Rinehart working tirelessly towards a dream that would benefit the nation. It was also two decades of hearing from people who said it could not be done and suffering continuing personal attacks on the individual bold enough to prove them wrong. I regret that in recent years too many of these uninformed comments have come from people in this place. They think there is some political point to be gained by repeating the class warfare rhetoric of the stupid Occupy movement. Instead, those people should be thanking Mrs Rinehart and her fellow entrepreneurs right around the country for the opportunities they are providing to so many of our citizens.

Mrs Rinehart's business successes enhance the lives of many, many Australians. I, for one, think that her extraordinary business-building capacity, her deep love for Australia and her concern for our nation's future need to be acknowledged and saluted by all in our parliament. Tonight I do my little bit to recognise that contribution and I ask that other senators and members of the House of Representatives consider doing so.

Nelson, Ms Kathrine

Senator FURNER (Queensland) (19:00): It is my pleasure tonight to rise in this adjournment debate to honour a great lady, Kath Nelson. Last Friday hundreds packed St John's Cathedral in Brisbane City to show their respect and celebrate the life of Kathrine Nelson. Kath was a conscientious advocate for working people. She was also passionate and extremely instrumental in making positive change for those who need it the most. She joined the Australian Services Union in 1993 and worked her way up through the organisation to be elected secretary of both the ASU and QSU in April 2011, the first time the positions had been held by a woman. Kath was also elected the vice-president of the national ASU.

Kath was an accomplished industrial relations professional who was widely respected in the union movement, by representatives of employers and by the government. Kath was a pivotal player in many major wins for Queensland workers, including the development of the Queensland Local Government Workforce Transition Code of Practice in 2007 and the South East Queensland Distribution and Retail Water Reform-Workforce Framework in 2009. However, Kath's most notable contribution was her role in the historic social and community services pay equity case in Queensland in 2008. This case delivered a finding which confirmed that Queensland social and community workers performed work which was
undervalued because of gender and laid the essential groundwork for the federal pay equity case which was completed in 2012. This outcome was delivered by a Labor government to the credit of many, but Kath in my opinion was at the very lead in ensuring these workers received their just conditions.

Kath would settle for nothing less than what those workers deserved. Her tenacity was rewarded, and community sector workers across Australia received higher rates of pay because of her action. Through her leadership, lobbying and negotiation skills, Kath was instrumental in obtaining guarantees from the Gillard government to fund the pay equity increases. As a member of the Australian Labor Party, Kath was compassionate and believed in a fair go for all. She incorporated these values into everything she did.

Kath was a member of the ALP national executive and the ALP Queensland administrative committee. She was also a member of the Queensland Council of Unions executive and the QCU management committee. Kath was much loved by those who worked with her and was an inspiring mentor and a treasured friend. At her service last Friday I think the one of the prayers which summed up Kath to a tee was:

There is nothing in the world more irresistibly contagious than Kath's laughter and good humour. We give thanks for her endless laughs we all shared with Kath and never forget the joy these moments brought to our lives.

I could not agree more. She would light up a room with her beautiful smile and have you laughing along with her over a joke or comment to lighten the moment.

At her funeral, hard men and women shed a tear. People who are known as some of the toughest people in the union movement and the broader industrial relations landscape were moved when they contemplated the commitment, contribution and compassion that Kath brought to industrial relations in Queensland. She will be missed by all in the labour movement.

Kath was 43 years old, and for the last 10 months she battled leukaemia. She was far too young to leave this world. Amazingly, Kath remained committed to organising, even when receiving treatment. She spoke to the doctors and nurses who cared for her about their need to be in the union and the importance of electing a state government that would support public services such as the public health system. She was organising, recruiting and advocating right to the end. Our love and condolences are with her entire family, especially her partner, Brett, and son, Spencer.

Sleep Health Foundation

Senator XENOPHON (South Australia) (19:05): Senator Furner's contribution to this debate should be noted. I think it says something not only about the person he paid tribute to but about the incredibly good heart that Senator Furner has.

The role that sleep plays in our lives is important but little attention has been paid to the sleep health of the nation as a whole and its wide and varied impact on our health, safety and productivity. That is why the forum organised last week here at Parliament House for the Sleep Health Foundation—the first NGO established in Australia to be primarily focused on raising awareness of sleep health—was so important.

Let me acknowledge Senator John Madigan, whose idea it was to invite the Sleep Health Foundation to parliament, and my colleagues senators Bilyk and Di Natale, for co-sponsoring
the forum with me. In particular, I would like to acknowledge the contributions of professionals who spoke at the forum: Professor David Hillman, chairman of Sleep Health Australia and head of the Department of Pulmonary Physiology and Sleep Medicine at Sir Charles Gairdner in Perth; Professor Shanthakumar Rajaratnam, from Monash University's School of Psychological Sciences; Lynne Pezzullo, lead partner in Health, Economics and Social Policy at Deloitte Australia; and Associate Professor Nick Antic, clinical director of Adelaide Institute for Sleep Health and a sleep specialist at Flinders Medical Centre.

Of course, during a parliamentary sitting week the whole issue of sleep deprivation resonates with many of us in this building. Not much is known about why people and animals require sleep. Indeed the definition of 'sleep' itself is highly contentious. We do know that sleep consumes, on average, some 33 per cent of our lives and is essential to how we function.

At this moment, roughly one in 12 Australians are diagnosed with some kind of sleep disorder. That is more than 1.5 million people. Many more suffer in silence, not reporting their problems with sleep to a doctor. As a nation, are we all too busy and sleep deprived to address this issue adequately? Sleep disorders such as obstructive sleep apnoea, insomnia, restless leg syndrome and shift work sleep disorder rob the nation of an estimated $5 billion a year in lost productivity. A further $31.4 billion a year is lost indirectly, according to Deloitte Access Economics.

Sleep disorders have been associated with an increased risk of cardiovascular disease, heart attack, obesity, type 2 diabetes, stroke, dementia, high blood pressure and long-term brain damage. All of these diseases present a problem to our society as it copes with an ageing population and ever-expanding health budgets. Sleep disorders also contribute to an increase in motor vehicle accidents and work related injuries. This is especially a problem for shift workers, who are particularly vulnerable to sleep disorders. We know from the research that an estimated 4.3 per cent of motor vehicle accidents and 4.9 per cent of work related injuries are caused by sleep disorders. That means that literally hundreds of Australians each year are either killed or seriously injured at work or on the roads because of sleep disorders. It is reported that the US incurs $71 billion to $93 billion a year in costs for motor vehicle accidents caused by sleepiness. The risk of work related accidents is increased by 60 per cent for shift workers alone. When you consider that 16 per cent of Australia's workforce is comprised of shift workers—that is, some 1.5 million people—that is very significant.

In fact, some man-made disasters have been associated with sleep deprivation: the Exxon Valdez oil spill, the Challenger space shuttle disaster and the nuclear accident in Chernobyl. A fully rested person can operate for 16 hours, but after that time it is as though they have a blood alcohol reading of 0.05 per cent. If this norm is interrupted because of sleep deprivation, the 16-hour time frame significantly contracts.

I am a firm believer in preventative medicine for our own health and that of the economy. If we reduce the incidence of sleep disorders we can take the pressure off our health budgets, and that is a good thing. We need to tackle this as an issue. At a time when a growing number of people are experiencing depression or are overwhelmed by the stresses posed by modern life and tightening economic conditions, we owe it to ourselves to get a good night's sleep. However, I fear that successive governments and politicians of all persuasions—me included—have been asleep at the wheel when it comes to tackling such a huge problem. A little bit of support and funding can reap huge dividends for the health, wellbeing and
productivity of our nation. Mr Deputy President, I hope I have not caused you to nod off, but it is time for all of us in this place to wake up to the urgency of tackling this issue.

**Trinity Christian School**

**Water Pollution**

*Senator SESELJA (Australian Capital Territory) (19:09):* It was an honour last Friday to represent the Parliamentary Secretary to the Minister for Education, the Hon. Scott Ryan, at the opening of Trinity Christian School's new facilities at their campus in Wanniassa. The Australian government contributed a grant of $600,000 under the capital grants program and the Trinity Christian School contributed $3.39 million. The funding mainly came from the school community, which shows the strength of the community and dedication of the students' families to their children's education. It is a great example of a partnership between the community and government. The project involved the demolition of the old administration building and the construction of a new building comprising an administration area and student hub.

I would particularly like to congratulate: the principal, Andrew Clayton; the principal's assistant, Louise Deck; the former principal, who was there and had much of the vision for the buildings, Carl Palmer, and his wife, Jennie; the deputy principal, Jason Ward; and the chair of Trinity Christian School Council, Mark LeCouteur. They were all instrumental in the building of the new facilities and the opening on Friday.

I would also like to comment on how impressed I was by the school captains, Kyle Steemson and Lara Sweeney. They were a positive reflection of how an encouraging school environment can produce articulate and mature young adults. In fact, I was very impressed by all of the students at Trinity, from kindergarten to year 12, who participated in the opening ceremony. Their parents can be very proud of them as students and Trinity's school community can be very proud of them as well. Trinity is a wonderful school community in the south of Canberra and I pay tribute to the wonderful contribution it makes to education in the ACT.

I would like to highlight another issue. This was on the front page of *The Canberra Times* today. The headline was: 'Revealed: Timber treatment plant's toxic legacy'. I am sure this would be a concern to many Canberrans. The article by Christopher Knaus said:

A multinational corporation was allowed to pollute Canberra water with toxic chemicals in a case exposing more than a decade of failings by ACT authorities. Koppers Wood Products' timber treatment plant in Hume caused hexavalent chromium, a carcinogen made infamous by environmental activist Erin Brockovich, to leach into groundwater at up to 2430 times the safe limit by 2007.

Importantly, the article goes on to say:

A Fairfax investigation has found the ACT government, despite knowing of the pollution, obtained no independent tests in the past seven years to ensure the carcinogens have not spread from the now mostly vacant 20-hectare site.

This is a major concern. As a government that often touts its environmental credentials, is in coalition with the Greens and talks about 90 per cent targets for renewable energy, most Canberrans would expect that it would get the basics right when it comes to environmental protection. Most Canberrans would expect that a government would treat very seriously the...
potential of serious toxins leaching into our waterways. This is a serious potential failing by the ACT Labor government. They are in coalition with the Greens. There is a Greens minister in the ACT.

I have spoken to and written to the federal Minister for the Environment, Greg Hunt, asking that he get a briefing on this issue. There were concerns raised in the article about the fact that this is close to a tributary of Jerrabomberra Creek, which flows into Lake Burley Griffin, making it a potential issue for the national government. Whether that has happened we do not know, but we do know that the government did not do the checks for many years despite being aware of this pollution. That is unacceptable and I think most Canberrans would find that unacceptable. We expect our local government to get that sort of thing right. It is legitimate that we look very closely at how this was allowed to happen.

I note that the Greens minister in the ACT government, Shane Rattenbury, says he will push for stronger laws, but you have to ask the question. This has been a Greens-Labor government for the last five years. This is not a question of there not being sufficient laws and sufficient enforcement powers. It appears to be an example of where a government has not used its laws to look after the environment and ensure that we do not see serious pollutants getting into our waterways. I draw this to the attention of the Senate and call on the ACT government to demonstrate very quickly how it is going to fix this issue and how it will ensure these sorts of things do not happen in the future.

Afghanistan: Cricket

Senator FAULKNER (New South Wales) (19:14): Tonight, as I did last year, I want to speak about the achievements of the Afghanistan national cricket team, the burgeoning cricket scene in Afghanistan and the positive knock-on effects of those developments for Afghan society more broadly. The accomplishments of the Afghanistan national cricket team are remarkable given that they have been achieved against a backdrop of decades of violence and upheaval in that country. The Afghan national side's most recent result, at the ICC Twenty20 World Cup in Bangladesh, was a disappointment for them. They exited from the competition after going down to the spirited cricket minnows Nepal by just nine runs. As an encouraging side note, the match between these two newcomers to the cricket world stage was a strong sign that cricket is growing worldwide, particularly in countries that have traditionally lacked the resources to field international teams.

The last 12 months have been an especially important chapter in the history of cricket in Afghanistan. In June 2013 the Afghanistan Cricket Board was elevated from affiliate status to associate member status. For Afghanistan, elevation to associate member status means increased funding from the ICC and, importantly, more exposure to international cricket. In July 2013 the Afghanistan Cricket Board signed an MOU with the Afghanistan Ministry of Education that will see the introduction of cricket to the physical education curriculum in schools across Afghanistan.

In late 2013 the Afghanistan Cricket Board began the construction of a new Afghanistan Cricket Academy. It has appointed an Australian, Peter Anderson, as head coach of the academy. The academy will focus on technical skill development for current players as well as nurturing budding local talent. And there is a lot of local young sporting talent in
Afghanistan. At the ICC Under-19 World Cup in February this year the under-19 Afghan team beat three-time champions Australia in the opening group matches as well as topping their group and making it to the quarter finals of the event. It was just the second time that a non-test-playing nation had progressed to the final eight of the tournament.

Of course, Afghanistan's greatest achievement in the last 12 months has been their qualification for the ICC Cricket World Cup to be hosted in Australia and New Zealand next year. The recent success of the Afghanistan national cricket team and the growing popularity of cricket in that country has contributed to a growing nationwide sense of unity and pride, particularly amongst the younger population. I hope that all senators would join me in acknowledging and celebrating the success of the Afghan national cricket team and the contribution that both the team and the game of cricket are making to a stronger and united Afghanistan.

**Arthritis Awareness Week**

**Senator CAROL BROWN** (Tasmania) (19:19): Arthritis is a common condition affecting three million people across Australia of all ages and from all walks of life. These three million Australians are affected by 120 different types of arthritis, each impacting on people in different ways but all frequently resulting in reduced mobility and joint stiffness. It is these facts that Arthritis Awareness Week seeks to highlight. Arthritis Awareness Week is held annually—this year from 23 to 30 March—to educate and inform Australians and to start a discussion on the support that is currently available to help people with arthritis.

Yesterday the Parliamentary Friends of Arthritis were able to join Arthritis Australia at the launch of 'Time to Move', a national strategy to reduce a costly burden. In launching this strategy the CEO of Arthritis Australia, Ainslie Cahill, stated:

Arthritis is one of the most common, costly and disabling chronic conditions in the country and comes with a bill for the health and welfare system of more than $5 billion a year. This is in addition to an annual loss of $9.4 billion in GDP caused by early retirement due to arthritis.

Ms Cahill went on to say:

But we know that much of the pain and disability caused by arthritis could be prevented or reduced by providing better care for people as early as possible in the disease course. This helps to keep people with arthritis in work and living life to the full. This is what Time to Move is addressing.

Time to Move sets out a strategy for improving care from childhood onwards for people with arthritis—specifically osteoarthritis, rheumatoid arthritis and juvenile arthritis. At the launch that I attended last night, we heard from people affected by each of these three types of arthritis. Former Wallaby Damian Smith spoke of being diagnosed with osteoarthritis in 2011, after many years of suffering symptoms, of the lifestyle changes that led to his diagnosis and the steps he now takes to manage his condition.

Ms Wendy Favorito spoke of her experience of living with rheumatoid arthritis for 37 years, having been diagnosed at the age of six. Wendy spoke about the struggles she faces every day, her great determination to continue in a career that she loves and the great support of her young children.

However, I am sure that all those who attended the event will agree that the most impactful speech came from Patrick McHarg and his mother, Sarah. Patrick is 11 years old. Not only did he attend and speak at the launch of Arthritis Australia's event but he also fronted his very
first media conference, which, he told me, was very exciting. Patrick told his audience that he loves playing rugby league and loves the Cronulla Sharks. When he grows up he wants to be a football player or a pilot in the Air Force. As Patrick says, he is a pretty normal kid, except that he has juvenile arthritis. Patrick was diagnosed with arthritis when he was six years old after months of doctor's visits, X-rays, ultrasounds, blood tests, CAT scans, MRIs and two knee operations.

Patrick's mother, Sarah, said that, after months of not knowing why her once healthy son was getting sicker before her eyes, she was relieved when they were finally given a label for what Patrick had. Now, with the gift of hindsight, Sarah says:

I was naive, I thought arthritis was a condition that people like my Grandma got, I was so wrong. This is a misconception about arthritis that all too many people have. Patrick shared with us his experience of living with juvenile arthritis, and I quote:

I missed a lot of school because my knees wouldn't start feeling better until lunch-time and my Mum and Dad took turns taking time off work to be home with me. For a long time I couldn't play in the playground at school, I got really sad because I couldn't play soccer or football with my friends at recess and lunchtime and I had to spend all my time in the library. I missed out on a lot: parties, sports carnivals, play dates, a lot of school and a couple of seasons of football.

I don't like that I am different to other kids.

Whether you are persuaded by facts and figures or these personal stories of the daily challenges of living with arthritis, it is clear that it is time to move on arthritis. We cannot afford not to.

Mining

Senator McKENZIE (Victoria—Nationals Whip in the Senate) (19:24): I rise this evening to speak about Labor's failed mining tax and its impact on Western Australia. This is an anti-Western-Australian tax that has not worked. It is time that this tax was abolished so that we can get on with the business of fixing the mess that the former government has left us. Today the ALP and the Greens defied the Western Australian people once again and voted against the repeal of this joke of a tax.

This tax was poorly executed and pathetically designed and has been criticised for favouring big multinational mining companies. Australian owned and operated mining companies, which are trying to expand their businesses, are being stifled by this tax. These young companies provide WA and the nation with thousands of job opportunities and billions of dollars in royalties and export revenue.

The legislation also fails to recognise that Australians do access and share in the mining resources of our nation. They do it through state royalties. That is in direct contrast to the Western Australian government's Royalties for Regions program, which is a great example of well-developed policy that is doing an excellent job of spreading the wealth of the resources boom to the wider population. As the National's WA Senate candidate Shane Van Styn says, 'This program is about ensuring some of the profits from mining go back to the communities where that wealth was created.' The program, conceived by former WA Nationals leader Brendon Grylls, is now being continued by Terry Redman and the coalition government of Western Australia. The program quarantines 25 per cent of all mining and petroleum
royalties, to be spent in the bush. Since 2008 it has spent over $4.2 billion on more than 3,500 individual projects. It is now bigger than anyone ever imagined. The total budget for the Royalties for Regions Fund was $334 million in 2008-09, growing to $1.4 billion this financial year. It has injected almost $1 billion into health, $1 billion into education and has reinvigorated regional communities by creating local jobs and building local communities.

It is programs like these which highlight the importance of having the Nationals to represent Western Australia in federal parliament. The Nationals want to see practical policy solutions that will benefit those living in regional Australia. Geraldton resident Shane Van Styn is a strong advocate for WA, its people and its future. He is a practising accountant, director at Yamatji Mining and Civil, and director of Sun City Security. He regularly travels throughout regional and outback WA, including Gascoyne, the Mid West and the Pilbara. He is a City of Greater Geraldton councillor and is involved in a wide range of local community groups. With experience and a solid track record in small business, local government and the political arena, Shane will provide the people of WA with a strong regional voice in federal parliament, if elected. He is passionate about Western Australia and would make a fantastic contribution to this place and, indeed, to the National Party and the coalition as a whole.

On 5 April Western Australians have very clear choice: vote for a candidate who supports strong economic growth, who supports regional Australia and who wants to get this country back on track, by getting the MRRT off Western Australia's back.

Abbott Government

Senator DASTYARI (New South Wales) (19:27): Hear ye, hear ye! My Lord, Lady and Lieges: I am shocked and horrified that people are ridiculing the bold and inspirational leadership of the people's Prime Minister, Sir Anthony Abbott of Warringah.

While some may claim that returning to knighthoods is taking the country backwards, I can think of no more important policy for our realm right now, because reform does not simply stop at backing bigots. No, friends: this is a Prime Minister with a vision for the future. This is a Prime Minister with a passion. This is a Prime Minister with a broadsword in his hands. While there are those who claim this is simply a policy designed to win votes in the marginal seat realm of Australia west, I reject this outright. With Holden and Ford already leaving, the carriage industry is a growth sector this government is prepared to embrace. I do not want to send the bazaars into a flurry, but rumours abound that Dame Gina Rinehart is prepared to supply the shields, armour and weaponry. What a boost to the West!

And, my friends, there are on-water matters as well. The free trade agreement the government is currently negotiating with the East India trading company is going to open Australia to spice markets unseen for a generation.

Friends, let me be clear: together we will stop the moats. In the past few days, I have consulted my economic round table and can categorically state that, by adopting this policy, dozens and dozens of pounds can be saved. I was excited to hear that ministries, in addition to knighthoods, will now be determined through a jousting tournament in the caucus room. Senator Bernardi from the realm of Australia South, whose jousting skills are lacking, confirmed that this has actually been the case for some time.
But, friends, all is not well—for an ill wind doth blow. My good friend Senator Sinodinos of the realm of South Wales New is currently facing the Inquisition. Despite what the court wizard may say, I believe he will float and be returned to the court forthwith.

We need a leader who will reject climate change, who knows the world is not warming. Friends, we need a leader who knows that winter is coming, for all of us know that we are living in the time of the Game of Tones.

Sterilisation of Intersex People

Senator SIEWERT (Western Australia—Australian Greens Whip) (19:31): The Community Affairs References Committee last year completed its inquiry into involuntary or coerced sterilisation of intersex people in Australia. Senator Moore and Senator Boyce will also be speaking on this topic. We tabled the committee's report last year, but it was during a period when the Senate was not sitting and we did not get an opportunity to talk about the report in the chamber.

Representatives of Organisation Intersex International Australia are in the gallery. I would like to acknowledge Morgan and Tony, who both gave evidence to the inquiry. They have sent a very strong signal to the committee that they very much like the report and have expressed their appreciation to us about it. They noted what a significant milestone the report is. We wanted to take the opportunity to talk about the report and, as 7 April is World Health Day, we thought this was an appropriate time to do so.

As I said, the Senate reference to the committee was to look into the involuntary or coerced sterilisation of intersex people in Australia. It was also the second part of our inquiry into involuntary or coerced sterilisation of people with disability. This was the second reference made by the chamber to the committee on this issue and they asked us—I remind the chamber because it was a while ago—to inquire into 'the current practices and policies relating to the involuntary or coerced sterilisation of intersex people, including sexual health and reproductive issues and the impact on intersex people'.

We took much longer to complete this inquiry than we had originally anticipated because we identified and took evidence on some very significant issues. We made 15 recommendations that—and hopefully I speak for all of us on the Community Affairs References Committee—we will be pursuing implementation of, in the same way we pursue implementation of recommendations arising out of many other inquiries.

I will read a passage from the OII Australia submission about the experience of Michael Noble. For me, it captures some of the issues we have been talking about—how society forces decisions on people and parents that have extremely long-term implications. The submission, which contains some very important information, is available on the committee's website. The passage reads:

Around the age of 23, an endocrinologist discovered that my body had never produced enough testosterone for me to undergo a full puberty. He therefore suggested I commence testosterone therapy. Initially, I resisted the pressures placed on me to commence therapy. Yet, eventually, I crumbled under the constant onslaught of threats and horror stories of what my future would be like if I didn’t undergo therapy, which the doctors claimed would turn me into a ‘real man’. It was insinuated, even blatantly stated on occasions, that my life would be worthless; that I would be a freak; that I would never achieve my potential, and that I would never have any self-esteem (apparently the self-esteem I already had was invalid as it existed outside of the predefined paradigm of being a real man). So, eventually, from the
age of 28, after about 6 years of constant threats and ‘counselling’ by my medical specialists, I began testosterone therapy. And I found it to be a horrifying experience.

Testosterone therapy generated profound and traumatic changes in me. I lost contact with who I was and thus my sense of self. I was mortified when I began to grow large amounts of hair, where hair had never been. My voice dropped. I developed a very strong libido, but found the feelings unwelcome. I lost contact with my heart and the ability to relate to people in a nonsexual manner … I just couldn’t function as a ‘normal’ male, and this caused me significant psychological and physical distress.

Worst of all, however, was that the therapy turned me into somebody I was not.

Hearing accounts like Michael's throughout the inquiry provided us with profound insights into the effects on intersex people of being pressured by medical professionals and society. It was really important that we heard those experiences so that we could get an understanding of just what it is like for people who have had such important life decisions forced on them.

As I said, we made 15 recommendations. First off, we needed to outline and define what 'intersex' is. I think most people in the community do not understand ‘intersex’ and do not understand the issues. People in the past have seen it as a disorder—in fact, I think it is fair to say that many still do. So one of our recommendations is that terms such as 'disorder' should not be used. We strongly recommend that government and other organisations use the term 'intersex', and do not use the term 'disorders of sexual development', because intersex people should not be seen to have a disorder.

We also point out that there is no single condition that is intersex; there are in fact 30 or 40 testable genetic, anatomical and hormonal types of sex difference. We need to make sure that that is clear. Most importantly, we need to understand that this is a human rights issue. That is why the committee has made the following recommendations:

The committee recommends that all medical treatment of intersex people take place under guidelines that ensure treatment is managed by multidisciplinary teams within a human rights framework. The guidelines should favour deferral of normalising treatment until the person can give fully informed consent, and seek to minimise surgical intervention on infants undertaken for primarily psychosocial reasons.

And I know—because I have spoken to both Tony and Morgan—that this is considered one of our key recommendations. It is also very consistent with the recommendations we made in the first part of our report, into involuntary and coerced sterilisation of people with disabilities. People will see a very similar theme that we have followed there—that is, we should not be making decisions for young people; they have a right to make their own decisions. It is important to minimise any intervention on infants, because currently society is forcing parents into making a decision now—which of course takes the decision out of the hands of that future adult.

We also make the point that the government should:

… provide funding to ensure that multidisciplinary teams are established for intersex medical care that have dedicated coordination, record-keeping and research support capacity, and comprehensive membership from the various medical and non-medical specialisms. All intersex people should have access to a multidisciplinary team.

That came across time and time again in the recommendations. I know my colleagues will pick up other elements of this report.
I would, as is tradition, like to take the opportunity to thank the secretariat, who put so much effort and detailed research into this report. We did a lot of research for this report. I usually do not pick out people for special mention, but I would like to mention Ian Holland, who did a superb job with this committee. He really went the extra mile to do the research; there was so little information that we had to seek some of the information overseas. I recommend that everyone have a read of this report. It really does start to address the issues that we need to be addressing.

Senator BOYCE (Queensland) (19:41): I am delighted to have the opportunity to join my colleagues from the Senate Community Affairs Legislation Committee Senators Moore and Siewert in speaking to this report tonight. I am also delighted that we have in the gallery Morgan Carpenter, the president of the Organisation Intersex International Australia, OII; and Tony Briffa, Vice President of OII and former president of the Androgen Insensitivity Syndrome Support Group Australia, which sounds like a mouthful but perhaps illustrates in some ways the medical model that has in the past been the way that intersex people have been seen in our community.

As Senator Siewert said, this inquiry grew out of an earlier inquiry we had started into the topic of involuntary and coerced sterilisation of people with disabilities. It was initially thought that we could handle the inquiry into the sterilisation of intersex people within the same inquiry. Some of the issues are the same. Within the disability community there is a slogan that says, 'Nothing about us without us,' and that is something that the intersex community would like to see applied to them as well. The issues that were similar were issues where some in the medical profession thought they knew better than anyone else; they would make decisions not only on behalf of individuals but on behalf of families as to what gender might be assigned to a baby or to a young child when this was not immediately obvious. The other area that was similar to the issue of sterilisation of women with disabilities was the fact that parents' wishes would often be seen as superior to and more important than the wishes of the individuals themselves.

What differed was the fact that the people with disabilities that we were talking about in many cases were seen as unable to give informed consent because of cognitive impairment. In the case of intersex people, the main issue was that this was being done when they were too young to give consent. The intersex community itself believed that drastic changes needed to happen in this area. So we moved on to conduct the second inquiry.

I would like to support Senator Siewert's comments about the former secretary of the committee, Dr Ian Holland, who did a superb job—well beyond what might be considered reasonable—to make sure that both of these inquiries were based on very sound grounds and were very cogent. As Senator Siewert explained, intersex is a continuum of conditions. Some conditions are not even diagnosed until puberty, but in the main they are diagnosed in babies or early in life. These conditions lead to a different development of gender.

It has been the practice in the past for doctors to make a decision often, it would appear, based on fashion or what was easiest. There was a great spurt of intersex babies being turned into girls in the sixties. In the seventies, they were more likely to be treated as boys. I know Tony will not mind if I mention his story, which was that he was one of twins; he had a twin sister. His condition was incomplete testicular feminisation, which is now known as partial androgen insensitivity syndrome. Doctors decided that even though he was genetically male.
he would be better off being assigned as a female. They told his parents to call him Antoinette and leave it at that.

I do not know how anyone here can begin to imagine what a life lived as someone that you are not must be like. It is just very difficult to imagine. But it is a situation that affects at least 5,000 Australians currently and could affect many more that we perhaps are unaware of, because there is still a taboo in many areas of talking about intersex people and the issues that they experience: the amount of medicalisation of the condition, the fact that children are often left in the situation where they are spending a lot of the time visiting specialists, people being treated as something of a freak or a sideshow, and people having medical interventions and commonly experiencing operation after operation. It is a terrible situation.

We are very proud within the committee that this report is apparently the first in the world into the sterilisation of intersex people. Morgan had the opportunity recently to present to a side event at the UN Human Rights Council in Geneva just a couple of weeks ago in regard to our report, which I am pleased to say is at least garnering international interest even if we have not managed to speak as broadly as we should on the topic here.

As Senator Siewert said, I think that probably the most important of our recommendations—of which there were 15—was that all proposed intersex medical interventions for children and adults without the capacity to consent should not happen without authorisation from a civil and administrative tribunal or the Family Court. We recommended that certainly nothing should happen to a child with intersex attributes until they were old enough to be involved in making a decision themselves. We recommended that all medical treatment should take place under guidelines that ensure that treatment is managed by multidisciplinary teams within a human rights network, that we should favour deferral of what is considered normalising treatment until the person could give fully informed consent and that we should seek to minimise surgical intervention on infants, particularly if it is primarily undertaken for psychosocial reasons.

The discomfort that we all experience—I think some more than others—around sexuality in general came up during both of the inquiries that we held. In terms of women with disability, there seemed to be a very strange attitude from many, many quarters towards menstruation and women with a disability. In the area of intersex, the issues were more around people trying to deal with genitalia that they considered to be outside the norm and doctors feeling that they were in the position to be the ones that ought to make the decision.

I am very pleased to say that my home state and that of Senator Moore, Queensland, has in the past 12 months come up with some very important changes to its education policy for intersex people. We have the case of some very forward-thinking parents and their nine-year-old daughter, Emma. Emma's parents supported her in refusing to use the disabled toilet at school, because she was not disabled. Emma, who was now nine, had decided at five that she wanted to identify as a girl, despite the fact that she had been born as Ronan. So their threat of a legal suit against the Queensland government forced the government into a policy which says that school staff will be provided with practical information to support the respectful treatment and inclusion of all students, including same-sex attracted, transgender or intersex students. It was decided that it was not appropriate to direct students to disabled toilets as an alternative. It is great to see a school system, at least, providing this sort of respect and understanding to intersex people. I encourage that everywhere. *(Time expired)*
Senator MOORE (Queensland) (19:51): At the beginning of any inquiry, we put down why we started the inquiry and we say thank you to people who helped us. We heard from both Senator Siewert and Senator Boyce about the history of this inquiry. But, in saying who we want to thank, we should also acknowledge that one of the major reasons this inquiry happened was the Organisation of Intersex International, OII. Thank you so much for sharing with us and for giving us the knowledge and the strength to walk with you through this inquiry, because it would not have happened without you and we would not have learnt what I think all of us together in this inquiry did. We had our own views at the beginning of the experience but we learned so much about the history of the isolation, the labelling and the lack of identity given to people who are intersex.

We had difficulty finding definitions with the research—we always do. But the one that I like to quote is one that says:

Intersex is not a medical condition or a disorder or a disability or a pathology or a condition of any sort. Intersex is differences in the same way height, weight, hair, and so on are differences.

That is way too simple. In putting down a definition, it is not a condition or a disability; intersex relates to people.

Councillor Tony, as I was putting this together, your quotes kept jumping out at me. I want to start with the one that I think summed up the feeling we had when we worked together in this inquiry. During the evidence Councillor Tony Briffa said:

I feel, and the support group feels, that this is an amazing time for intersex. We see the human rights and antidiscrimination legislation referencing intersex at the moment, which is brilliant, as well as an acknowledgement that we exist and that it is a biological variation, which has been wonderful … My birth certificate, from the state of Victoria, does not classify me as male or female. I have certainly had a female birth certificate, I had a male birth certificate at one stage and I have a blank birth certificate now. But we are hoping that one day in the future our birth certificates will actually be able to reflect, for those who want it, the way nature made us. If people feel female that is great, and if they feel male that is great, but there are also people like me: I just accept the way nature made me. I am happy for my birth certificate to say that I am both male and female. One day, hopefully, we will have that as well.

That statement was the joy that we felt in learning that people through their hard work and commitment and professional skills have been able to change the way our community looks at intersex. We saw in the past there was cruelty and labelling. The worst possible form we ever heard was the complete focus on the term 'normalisation'. We heard that term consistently both in this inquiry and in the one on people with disability. What we need to do is take away the fear, take away the uncertainty and ensure that we listen to people who understand what they need. That has not come easily.

We heard consistently about the issues of medicalisation. When looking at the history of intersex, we consistently see that it has been defined in a medical way. As Senator Boyce put it, the political focus has meant that people are ignored to a large extent and are looked upon as 'case load', as things that have treatment rather than people with feelings and human rights. In our recommendations we have consistently said that the issues around intersex in our country should be seen as human rights issues so that people have support, recognition and respect.

There was a considerable amount of research done and, again, I want to echo the comments made about the work that Dr Ian Holland did in this inquiry. I think what happened for all of
us was that, once we started listening to the evidence, we became completely engaged in the history of what had gone on before, the current situation, the need for engagement and the need for understanding. We also learned about the need for engagement of peer groups and support groups because there is a need for personal support for themselves, for their families and for their friends. The role of peer groups became particularly important. Another quote from Councillor Briffa referred to a situation where a young child was born both intersex and with a cleft palate. The parents in that family were given significant support and interaction about cleft palates but were left completely ignorant of the sensitivities and the importance of issues around intersex. I thought that exemplified to a great extent the failures in our current system.

We often talk in our inquiries about the importance of multidisciplinary teams. One of our recommendations looks at the need for expertise in the field of intersex. One of the sadnesses, of course, is there are way too few practitioners who have the range of skills and knowledge that are needed to work with people and families through the processes of working out what would be the best outcome for the young person—often identified at birth or in early childhood—and for their families.

Senator Boyce, I loved the story of the young woman in Queensland because that exemplified the process of a family working together with a young person who made their own decision about who they are with the full support of their family at an early age. The family then made sure that the rest of society accepted that and worked with them. It is a part of that hope that we heard from Councillor Briffa. We now have a situation where a state government which is not always known to be flexible in interacting with individuals has been able to work with the young woman and ensure that she is able to make your own choices and move through with that total feeling of support.

We have a way to go and there are a number of recommendations there about the need for professional skills and development. We were impressed by the work of the people at the Royal Children's Hospital in Melbourne, who seem to have the most highly defined knowledge around this area. They worked effectively and, most importantly, worked with people from OII to ensure that there was this range of knowledge. We always get focused on documentation in this committee. Again, people must be able to have documentation that reflects their own identity rather than being forced into something that is not them. The Sex Discrimination Act legislation that we passed in 2013 now clearly identifies the issues around human rights and respect for people who identify as intersex. For the first time we as a nation can be proud of that.

I hope that this report is read by people—and not just the international groups who might find it by searching on Google—for the amount of work that has been done on the history, the achievements and where we need to go next. I would hope that this report will provide an opening for people with an interest in this to learn even more. The OII was very focused on family counselling rather than surgical options, and I think that summed up a lot of the discussion we had on the medical process. There are guidelines for the way that should happen and, again, the OII sum up a lot of the issues that we talked about. Medical intervention should not assume crisis in our difference nor normalisation as a goal. Surgical intervention must have a clear ethical basis supported by evidence of long-term benefit. We must have data that is effective and recorded on intersex births and we must see that necessary
medical intervention on minors should preserve the potential for different life paths and identities until the patient is old enough to consent. Medical intervention must not pathologise intersex through the use of stigmatising language.

The issue of stigma came up constantly and it flows on from ignorance and fear. People should not be stigmatised because of who they are. In fact, the clear message from our report is that people should be valued and respected. They know who they are and they should be able to share that openly with all of us. Again, I particularly want to thank those people who gave of their lives to us for the purpose of this report. We have a responsibility, as I have said many times in this parliament, to respond to the recommendations and make sure that this was a worthwhile exercise.

Franceschini, Mr Renzo

Senator FIERRAVANTI-WELLS (New South Wales—Parliamentary Secretary to the Minister for Social Services) (20:02): Tonight I rise to pay tribute to Mr Renzo Franceschini, who passed away on 14 March 2014 at St Vincent's Hospital after a battle with cancer. He was 76 years old. Renzo was a well-known figure in the Australian-Italian community in Sydney and someone my husband, John, and I counted as a friend. Renzo was born in Ferrara, Italy on 27 March 1937.

I first met Renzo when he was the representative of the Banca Nazionale del Lavoro, one of Italy's leading banks. Renzo had had a distinguished career with the bank, having worked in Singapore, Beijing and then Sydney. He was the head of the Banca Nazionale del Lavoro in Sydney on two occasions, first in the early 1980s and then from 2000 until his retirement after almost 40 years with the bank when it fell to him to close the last representative Italian bank office in Australia.

Renzo became a member of the Dante Alighieri Society in the early 1980s and was one for many years, under the presidency of the late Mrs Renata Salteri. When he returned to Australia in 2000, he served as secretary under the presidency of Mr Giorgio Anselmi. The Dante Alighieri Society was founded in Rome in 1889 to promote the appreciation and understanding of Italian language and culture worldwide. The Sydney chapter of the society is one of about 450 internationally. It has for many years provided Italian classes and staged cultural events not just for those of Italian background but for all Australians. I know that many Australians have benefited from and enjoyed the society's events.

Renzo was also the delegate of the Accademia Italiana della Cucina—the Italian Academy of Italian Cuisine—in Sydney for many years. The Accademia was founded in 1953 in Milan with the objective of safeguarding the principles of the civilisation of the Italian table. I quote from an article in the April 2011 edition of Italianicious, an Italian magazine, entitled 'The Culture Wars'. It said: 'The Italian Academy of Cuisine is one of the most significant and influential organisations devoted to the preservation of traditional food and culture.' And today, after 60 years, the Accademia is more active than ever. It counts 211 delegations in Italy and 76 abroad. The delegations not only foster the aims of the Accademia but are also a means of cultural promotion through their participation in important gastronomical exhibitions as well as directing their own social activities. The Accademia is also one of two important institutes of the Italian Republic nominated by the President of the Italy.
Cooking is in fact one of the most important forms of expression of a nation's culture. It is a product of a country's history and the life of those who live in the country. Remember the old saying: 'You are what you eat'? Our country's food expresses who we are, helps us rediscover our roots, develops with us and represents us beyond our borders. As Parliamentary Secretary to the Minister for Social Services, with special responsibility for multicultural affairs, I am acutely aware of the importance of the culture of the table. Food has been an integral part of the development of our cultural diversity, and Australian-Italians have been at the forefront of contribution to our uniquely Australian multiculturalism. They have done much to change our palates and our table. And the Accademia has also played a role in this.

The first delegation of the Accademia was established in Melbourne by Mr Gino Di Santo, a migrant from Molise in Italy who arrived in Australia in 1952. Gino set up the well-known Melbourne establishment, Enoteca Sileno, which has had an important influence in the Australian food and wine scene. In 1988 Gino founded the first delegation of the Accademia in Melbourne. This was followed by Adelaide. With Gino's help, I worked to establish the delegation in Sydney in about 2000. I headed the delegation until my election to the Senate, when I resigned.

Part of the role of the Accademia is to safeguard the tradition of Italian cuisine. Over the years I have participated in dinner meetings where we visit and judge Italian restaurants in Australia and report to the Accademia for monthly publications and the yearly food guides. When I was elected to the Senate in 2004, Renzo took over the leadership of the Sydney delegation. I am very pleased to say that under his guidance the number of members increased, as did the contact with the Melbourne, Canberra and Brisbane delegations. In addition, the formal visits made by the Sydney delegation to various restaurants improved the performance of many chefs. Renzo was well regarded and respected, and he had an excellent understanding of Italian cuisine. In addition, over the years the delegation awarded a silver plate to restaurants in recognition of their high standard of cuisine.

Renzo was a passionate advocate of good food. He was even more passionate about the protection and promotion of the rich culture of Italian cuisine. In an article entitled 'From Italy with love' in the good living and entertainment section of The Sydney Morning Herald on 24 May 2005, Joanna Savill explored the changes to Italian food in Sydney. She quoted Italian trade commissioner Matteo Picciarello, who referred to the exciting move away from 'boring, traditional menus'. The article states:

His compatriot Renzo Franceschini, a banker who heads the Sydney branch of the venerable Accademia Italiana della Cucina (Italian Academy of Cuisine) agrees. 'Our members are not professional reviewers,' Franceschini says. 'We're just an Italian cultural organisation, recognised by the Italian government, concerned with the preserving of genuine culinary tradition. But we are having many more positive experiences. There's definitely an improvement in quality and choice in the restaurants we visit for our regular members' dinners.'

In cooperation with the Italian Cultural Institute in Sydney, Renzo organized a successful exhibition on Italian cuisine with material sent from Rome. It was a very successful exhibition and enjoyed by many not just from the Italian community but from the broader Australian community.
I know I speak on behalf of all members of the Sydney delegation when I say he will be sadly missed. His knowledge and readiness to be critical when required was valued by all. Renzo was not afraid to challenge top chefs when he did not believe that the true norms of Italian cuisine had been followed. Renzo also strongly supported the promotion of cultural events organized by the Italo-Australian community, in particular the performances of Annibale Migliucci's Italian Theatre Company.

Renzo is survived by his wife Isabella. They, like many professionals who came to work in Australia, decided to remain and make this their home and became Australian citizens. They have both made a great contribution to their adopted country. Renzo was well known and respected for his honest and critical comments. Renzo enjoyed debating and discussing politics, and I recall our discussions over the years on the finer points of political life in both Italy and Australia. I enjoyed his frankness and his clarity of thought.

To the many who knew him, I know I speak on behalf of them when I offer the condolences of the Australian-Italian community to Isabella, his son, Paolo, and his family in Italy. He was a good man. He will long be remembered for his contribution to the Australian-Italian community. Vale Renzo.

National Day of Action against Bullying and Violence

Senator BILYK (Tasmania—Deputy Opposition Whip in the Senate) (20:10): Firstly, I would like to support Senator Xenophon's earlier speech in regard to the forum for the Sleep Health Foundation held in Parliament House this week. It was a great event, as Senator Xenophon said. I will not go over what he said, but I would encourage all members and senators to maybe have a look at that speech.

Tonight, I want to talk about bullying. It is a topic which I am concerned about, particularly through my previous work as chair of the joint and Senate select committees on cybersafety and also having worked for many years as an early childhood educator. I am aware of the importance of ensuring that children from a young age learn to interact with their peers in a positive manner.

The Bullying. No Way! program as well as the cybersmart programs delivered by the ACMA, both initiated by the former Labor government, are excellent programs to help teach children the right way to interact with their peers either online or in person. Children can and should be taught from a young age that it is fundamentally wrong to tease or act violently against their peers, that they should not treat others differently because of the colour of their skin or hair, their socioeconomic background or any other trait and that bigotry is not okay and is not acceptable or tolerated by our society. I think that children could probably teach some people in this place a lesson or two in regard to that.

Last Friday marked the National Day of Action against Bullying and Violence, the fourth day of action since its inception in March 2011. The Day of Action Against Bullying and Violence is timely and relevant, with one in five Australians being bullied—a statistic that is far too high. Bullying can have tragic and far-reaching consequences. It has a negative impact on everyone involved—the target, the bully and the bystanders. Students who are bullied are more likely to feel disconnected from school and not enjoy their school. They often have lower academic outcomes, including lower attendance and completion rates. They lack quality friendships at school. They display high levels of emotion that indicate vulnerability
and low levels of resilience. They may be less well accepted by peers, avoid conflict and be often socially withdrawn. They may have low self-esteem, depression, anxiety and feelings of loneliness and isolation. They may possibly have nightmares and feel wary or suspicious of others. Unfortunately, they may have an increased risk of depression and substance abuse and, in extreme cases, have a higher risk of suicide.

The National Day of Action Against Bullying and Violence was celebrated on 21 March this year. It is an initiative of the Safe and Supportive School Communities Working Group, which is made up of all Australian education authorities. It is an opportunity for whole school communities to take a stand together against bullying and violence. In 2013 more than 1,400 schools across Australia participated by running local events, inviting guest speakers and exploring bullying and the role of bystanders in classroom lessons. In 2014 this has increased to an extraordinary one million students from over 2,100 schools across Australia. I am sure that everyone here would agree that this is a remarkable increase over last year's participation and that everybody would welcome the growing awareness of bullying.

The National Day of Action against Bullying and Violence is supported by the Bullying. No Way! program. In my home state of Tasmania, I am proud to say almost 80 Tasmanian schools have taken part in this year's national day of action. These schools are from all across the state, including Rose Bay High School, Warrane Primary School, St Anthony's Catholic School in Riverside, St Cuthbert's Catholic School in Lindisfarne, Zeehan Primary School, and Queechy High School in Launceston. That is just a few of them. It is excellent to see the anti-bullying message grow and spread throughout schools all across the region of Tasmania.

One of the other schools that participated in the day of action was Cygnet Primary School, a little school in the D'Entrecasteaux Channel that I try to visit whenever I can. Grade 6 students at the Cygnet Primary School wrote an anti-bullying rap song and taught it to their peers, teachers and parents at the school's assembly. It has been recognised by teachers that children often learn well from their peers, so it was really great to see these grade 6 students spread the anti-bullying message to the wider school community.

Deloraine High School also marked the National Day of Action against Bullying and Violence. Students held a barbecue and acoustic concert at lunchtime to raise awareness. Those participating in the barbecue received an anti-bullying wristband, which they wore as a proud acknowledgement of their opposition to bullying, and all were encouraged to speak up against bullying and violence.

At another school, Brooks High School in Launceston, students also participated in the National Day of Action against Bullying and Violence activities. They spread the anti-bullying message to the wider community by handing out wristbands and support information at a local shopping centre. It is really wonderful that students from Brooks High School have recognised that bullying is a problem whose reach is wider than just our classrooms or our schoolyards. They recognise that bullying can, and unfortunately does, also occur in the wider community, in workplaces, at sporting events and in community organisations.

The former Labor government also recognised the impact of workplace bullying upon workers and on the nation's productivity. That is why we amended the Fair Work Act to give employees the right to go to the Fair Work Commission if they were being bullied at work. We, on this side of the chamber, believe that this is the right of all Australian workers,
whether permanent staff, contractors, apprentices, trainees, work experience students or volunteers. We understood the negative impacts of bullying and sought to mitigate them.

For children who are being bullied, it is sad to see that, with the increased use of technology and social media, bullying is no longer left at the school gate. As the Joint Select Committee on Cyber-Safety heard time and time again, cyberbullying can occur anywhere and anytime via a variety of mediums: text messages, social media, email and video-sharing websites. Parents need to spend time with their children to understand what technology children are using and to ensure that children have confidence in discussing issues about using these technologies with their parents.

A little interesting aside is that research by the Bully Zero Australia Foundation shows that one of the reasons that a lot of children do not speak out about cyberbullying to their parents is that they think their parents do not understand the technology or the apps that they are using. I hate to admit that, in some cases, not understanding the apps or the technology is probably true in my own household at times.

The Leader of the Opposition, Mr Bill Shorten, joined the Essendon Football Club on the national day of action to celebrate the partnerships between the club, Melbourne Victory and the Bully Zero Australia Foundation and to launch their Digital Detox program. Schools and businesses across the country participated in the 48-hour Digital Detox program to raise money to combat cyberbullying. As well as raising funds, it provided an opportunity for people to remember what it was like to experience life without continuous connection to social media or the internet. It is heartening to see awareness of important issues like bullying and cyberbullying are being pushed by the AFL and other sporting codes. I would like to thank the Essendon Football Club, in particular, for supporting this endeavour.

As I mentioned earlier, the Bullying. No Way! program is a wonderful resource to tackle bullying which was instigated by the former Labor government. There are resources available on the website—found at bullyingnoway.gov.au—for teachers, parents, students and young children. The information in the teachers portal includes facts about bullying, information on the National Safe Schools Framework, whole-school strategies to tackle bullying, resources for the classroom and information on supporting individual students. Resources for parents include facts about what bullying is and why it occurs, how to tell if your child is being bullied and what you can do to help, how parents can tell if their child is bullying others and what they should do, as well as what the parents need to tell the school and what they should expect from the school. These resources include links, videos and other information. Resources for children are targeted to three different age groups: older than 14, between nine and 13, and eight and under. The language used for each age group is age appropriate. The resources can be accessed either by children themselves or with the support of parents or older siblings. Once again, I would urge all parents, teachers and students to explore these resources for themselves.

In concluding, I would just like to say that bullying is unacceptable anywhere in our society, whether it is in the schoolyard, in the workplace or online. It is an issue that we all need to stand up against when we see it and we need to support the victims. I would like to leave you with a quote from the opposition leader, Bill Shorten, who put out the message of the National Day of Action against Bullying and Violence very succinctly by saying:
Tuesday, 25 March 2014

SENATE

2025

… bullying is cowardly, bullying is cruel, bullying is wrong and bullying must stop.

These are words that we all should remember.

Ludlam, Senator Scott

Senator DI NATALE (Victoria) (20:20): I rise today to pay tribute to and to thank my colleague and friend Senator Scott Ludlam. I do this not simply because I want people to vote for Scott in the historic Senate by-election that will decide the make-up of this chamber from July—although that is partly true. I do it because Senator Ludlam is a person of extraordinary humility, grace and integrity, and they are rare qualities in this place. I do it to thank him for the enormous contribution he has made to the Australian community across so many issues. And I do it to thank him for that wonderful speech—a speech now viewed by almost one million Australians.

Scott, I want to say thanks for showing me that there is room for more than simple slogans and sound bites in our political debate and that a well-crafted and insightful speech can have a profound impact—even when delivered to a near-empty room. I have lost count of the number of speeches I have given in this place late at night, wondering if anyone is listening. It seems that they are. Thanks for reminding me that people are desperate to hear a different perspective, one that does not fit the Murdoch world view—or what our old boss used to call 'the hate media'. Thanks for reminding me that there is room for a speech that is not so dumbed down that you cannot work out if you are watching the TV news or some infomercial.

It is pretty easy in this job to become jaded and cynical and to wonder whether the time you spend away from your wife and kids is worth it and whether you are fighting a lone battle or a lost cause. Then, in a moment of clarity—like in the speech delivered by Scott—comes a reminder that you are not alone and that hundreds of thousands of people are right there with you. It is indeed a privilege to be able to give voice to their hopes, but with that privilege comes an obligation—an obligation to name things just as they are. In that spirit there are several things that I too want to say to our new Prime Minister, Mr Abbott.

Mr Abbott, if you were really worried about people drowning at sea, you would not label asylum seekers as 'illegal' when you know that is a lie. You would not compare them with 'sewerage', as Barnaby Joyce once did, and you would not blame them when they are assaulted or killed, as the immigration minister has done. Mr Abbott, we dropped bombs on these people. We invaded their countries because we believed that the regimes were so brutal, so cruel and so heartless that it was worth spilling Australian blood to be rid of them. It is for precisely the same reason that these people are seeking our protection—yet we lock them up, we torture them and now, it seems, we even kill them.

Mr Abbott, stopping the boats is easy. If we can compete with the asylum seekers' persecutors back home for brutality and inhumanity, they will not come here. But that is not a competition I want to enter into, because success means inflicting horrendous trauma and psychological damage on innocent kids. It means denying a young woman access to medical care. It means denying people any hope so that they feel their only option is to take their own lives.

Mr Abbott, just because people do not die in Australian waters does not mean they are safe. Those dangerous boat journeys are a deliberate decision taken by desperate people, and
removing the option of a boat leaves them where they started—in a dangerous and hopeless situation. A person who decides not to come to Australia and who is killed by the Taliban or who dies making a dangerous boat journey elsewhere is just as dead as if they had died in our waters. Sure, there might be fewer asylum seekers reaching Australia, but, Mr Abbott, you are just outsourcing the misery.

Of course, credit where it is due: Mr Abbott, you did an outstanding job as opposition leader. Of course, you were helped by a divided government, But, I have to hand it to you, you ran one hell of a scare campaign on climate change. You should know, though, that this is a short-lived victory and you are about to be undone. In the coming years, Mother Nature will run the scare campaign of the century and no three-word slogan will match it. You probably feel pretty smug right now. The climate deniers are in the ascendancy. The tinfoil hat brigade are emboldened because you have put them in charge. And the environment is under attack from all sides. You are about to tear down the renewable energy target. You will keep trashing the Great Barrier Reef. And you are revving the chainsaws to cut down what is left of our ancient forests. It must feel pretty good. You have done the sums and there are quite a few votes in greenie bashing. But, Mr Abbott, being an opposition leader is very different from governing the country. Just a few short months into your term you are showing yourself to be all opposition and no leader.

Just know that there are growing numbers of people around the country who are becoming angry: the people of Morwell, who have been suffocating in a blanket of toxic smoke—they have had enough; the tourism operators and fishermen who rely on a healthy Great Barrier Reef—they have had enough; the farmers whose land and water is being ruined by coal seam gas—they have had enough; the tradies who rely on the renewable energy target so that they can install solar panels on people's roofs—they have had enough; and the millions of people who love our precious forests—they have had enough too. You see, Mr Abbott, people right around the country understand that we are part of nature; we are not separate from it. They know that when we lose an animal like the Leadbeater's possum, the hairy-nosed wombat or the spotted quoll we lose a part of us.

It is not just your attacks on the environment, though, that are making people angry. When I hear you say that you are Medicare's best friend or that you are a feminist or that loggers are conservationists, I am reminded of George Orwell's 1984 and the party slogan: 'War is peace, freedom is slavery, ignorance is strength'. Mr Abbott, you might think that a two-tiered American style health system is a good idea. We do not. You might think that the ABC and SBS are a hotbed of leftist activism and need to be gutted. We do not. You might think that we should change the law because calling someone a 'wog', a 'chink' or a 'boong' is an expression of freedom of speech. We do not.

It takes the unique privilege of a middle-class white man like Senator Brandis to not understand how words like that can cut deep and how they can scar. I should not be surprised, because one look at your cabinet reveals an uninspiring bunch of middle-class, middle-aged and middle-of-the-road road white men. And you know that a former Prime Minister once called the Senate 'unrepresentative swill' but, with one woman in your cabinet, I reckon that is a label better applied to your cabinet. Mr Abbott, let me finish by saying that tearing things down is easy. Wrecking things is easy. Building a nation is hard; it takes work—but that is what leaders do.
So, Scott, we are engaged in a battle for the soul of our nation right now and, like you, I am not going to hand it over to a Prime Minister or a government that believes in a dog-eat-dog world—a world where it is everyone for themselves, where, if you are lucky enough to be born into privilege and wealth, you deserve more of it and, if you are not born into that world, well, tough luck. That is not my Australia. You are right to say that in time this government will be nothing but a flea-bitten footnote in the great story that is our nation's history. I hope that in your words that 'greasy layer in the core sample of future political scientists'—that is, the Abbott government—will sit beneath a much bigger, bright green layer that represents a different kind of politics, one based on decency and one based on care and compassion. Scott, you are the epitome of all those things. You have got an election to win. Good luck, mate. Let's take our country back.

Freedom of Religion

Senator FAWCETT (South Australia) (20:29): Aristotle is credited with asking the question: 'What is democratic behaviour? Is it that which preserves a democracy or that which people like doing?' I tend to believe that it is the former. Democracy is about protecting, preserving and, in fact, reinforcing those things that underpin a democracy. Here in Australia two of those principles—they are valid worldwide—are freedom of speech and freedom of religion. Coming from Australia, it is quite easy to have a world view that assumes that those things are normal and, more to the point, that they are the norm for people around the world. Clearly, that is not the case.

Australians were possibly a little surprised recently to hear about the case of Mr John Short, a 75-year-old Australian who had gone to North Korea as a missionary. He decided to distribute Christian literature there. He was tracked down by the authorities—they had found literature that had been distributed—to his hotel room and he was arrested. Thankfully, as people are probably aware, he was released subsequently—partly because of his age and partly because he was prepared to sign a confession. What the media did not report was that 50,000 to 70,000 Christians in North Korea are locked up in labour camps on the basis of their faith. They have committed no other crime than to belong to that faith. Clearly, in some parts of the world freedom of speech and freedom of religion are not present. As we look at the dysfunction that we see in that 'kingdom' which is North Korea, we see significant persecution there—in this case, of Christians.

Interestingly, the German International Society for Human Rights has published information that concludes that 80 per cent of all acts of religious discrimination and vilification across the world are directed at Christians. In Australia, where we tend to see ourselves, according to the Bureau of Statistics, as a Christian country—even people who do not necessarily attend church often claim that heritage—it may be difficult to believe that 80 per cent of all acts of religious discrimination and vilification across the world are directed at Christians.

What do we mean by discrimination, vilification and persecution of Christians? North Korea is country No. 1 on the list of countries that persecute Christians. Sitting at No. 3 now is Syria. Whilst the conflict in Syria is very much a sectarian conflict between the Sunni and Shia, there are also minorities there—both Druze and Christians—who have become the persecuted minorities. Disturbingly, some of the jihadist groups in Syria—particularly ISIL, the Islamic State in Iraq and the Levant—have reintroduced, in the areas that they control, the
ancient tradition, which is still current in Sharia law, of Dhimmitude. The BBC is now reporting that Syria is placing conditions on Christians in line with ancient traditions and writings that say that you have to pay a tax for protection. You convert, you pay the tax or you die. The BBC is reporting now that that is occurring in Syria. They are also reporting numerous stories of kidnaps, rapes and very specific targeting of the minority Christian community in Syria.

It is important to note that this does not occur just in areas held by rebels and violent groups, such as those in Syria. We also see nation states—Iran is a classic case—where many pastors and Christians are currently incarcerated because of their faith. Christians are incarcerated for no reason other than that they are running a church. People there who have decided to change their religion have been incarcerated for that.

In Egypt, much of the world was pleased and encouraged to see the Arab spring. There was great hope for what that might bring in terms of democracy. Again, we tend to look at this through our world view. We assume that democracy means a secular, liberal, plural democracy where the majority elect a government but the rights of minorities are respected such that they have every right to participate in the community and potentially at a future election to see a change of government. That is what we understand to be democracy. But where the legal basis of a country does not recognise the separation of church and state, in practice there is no freedom of religion. And if they also have things such as blasphemy laws, there is no freedom of speech. Those two elements are critical to preserving democracy, as we know.

In Egypt we saw, after the ousting of President Mubarak in 2011 and the election of President Morsi—a member of the Muslim Brotherhood—the redrafting of a constitution which enshrined disadvantage for both women and minorities, including Christians, in terms of the ability to participate fully. That clearly disadvantaged the large Coptic Christian community in Egypt. So it is no surprise that when General Sisi overthrew the Muslim Brotherhood and President Morsi, people said, 'That's a shame because that has undone a democratic election.' On the other hand, we have also seen a nation standing up and saying, 'We don't want a situation where freedom of speech and freedom of religion are curtailed because of that mixing that the constitution brought in of church'—in that case I guess it is "mosque"—'and state.'

A number of sections of the community, including many people of the Islamic faith, who did not want to live under a theocracy stood up and said, 'We do not want to live in that kind of nation.' Hence the change of government. I wish them well as they move towards bringing in these two principles—freedom of speech and freedom of religion—which are so important. We have also seen Australians detained—I am referring to the issue of freedom of the media—in Egypt.

The last thing that I would like to touch on is that, having seen a pretty grim outlook for Christians, and having talked about the separation of church and state, it is often the case that people say, 'We really need to keep religion out of politics. The church'—whichever type you want to talk about—'therefore, is bad.'

I was fascinated to see an article in the Financial Review on 28 February by Larry Siedentop, who is a philosopher. He wrote an article called 'Secularism undermined'. He talked about political philosophy, looking at Islam's rise, the growth of Christian
fundamentalism and renewed insights into Western liberal traditions. I would like to read two quotes which are fascinating. He said:

... in contrast—
to most other civilisations—

Western beliefs are informed by the assumption of moral equality, which underpins the secular state and the idea of fundamental or natural rights.

He goes on to describe the evolution of the Christian church through the Reformation and the value of the individual. In this piece he goes to the concept of the separation of church and state post the Reformation and, I guess, post the treaty of Westphalia. He said:

... properly understood—
the separation of church and state—
can be seen as Europe's noblest achievement and Christianity's gift to the world ...

Interestingly, rather than people looking at Christianity and saying it is a threat to good secular government, according to the philosopher Larry Siedentop it is actually the origin of the concept of separation of church and state.

As we have debates over the coming weeks about things like section 18C and freedom of speech, I would encourage people to look more broadly at the world. Look at our democracy compared to others and look at the things that underpin it: freedom of speech and freedom of religion. Consider also those who are less well off than ourselves. Do not just fight to preserve those things here but use the influence we can—politically, through trade and other measures—to try and encourage changes in nations beyond our shores so that all people in the world will enjoy those two fundamental human rights of the freedom of speech and the freedom of religion.

**Education**

*Senator WRIGHT* (South Australia) (20:39): I rise tonight to speak about the urgent need for a school system where every child has the chance to succeed. Last week, I initiated a matter of public importance debate on the failure of the Abbott government to acknowledge or address the staggering inequality of opportunity in our schools in Australia in 2014. I certainly spoke in that debate, as did some of my colleagues, but tonight I want to add to that discussion by letting parents, students and teachers have their say in this place too. From every corner of the country, people have been contacting my office about the pressing need to finish what the Gonski review started, because the future of our nation's schoolkids is not just a political game for the Minister for Education or anyone else; it is about real lives and our nation's future. Of course, it is not only the Australian Greens who believe in a future where education outcomes are not dependent on wealth or privilege. We are not the only ones who want to live in a country where every kid can achieve their potential, no matter where they live and whatever their background.

Tonight I would like to hand over the floor to the people of Australia who are desperate to see change in our school funding system for the benefit of the nation. I will start with Christine from New South Wales. She wrote to me and said:

I am waiting to see how my young daughter will be educated.
When she begins school, will she be one of the hundreds of thousands of children who receive a barely adequate, under-funded education in a rural public school simply because her parents can't afford the affluent private alternative?

Or will she be cared for in a system designed to bring out the best in every child?

As I write this, it seems that the former is most likely as the politicians who have the power over such decisions show little care or imagination for the future of the country or the children who will grow up to lead it.

Kate from Victoria wrote to me about the fantastic public education she had received and her gratitude that her children were receiving the same. But she knows she is lucky. Kate said:

I am so impressed by the facilities, the wonderful school grounds, the classrooms [at my boys' school]. The hard work and enthusiasm of the teachers astounds me, considering the pathetic remuneration they receive, and I feel my children are extremely lucky to be taught by them.

I am lucky to be a well-educated, white, middle class woman in a well-off area (and a swinging state electorate). I know our local primary and high schools are probably better than average. I only wish funding would be allocated to bring the less well-off state schools up to the same standard, so all kids in the state system received the excellent education my kids are getting. I am disgusted that funding is allocated on a per student system, so that well-off private schools take money from the pot that would otherwise give to poorer schools.

Public schools all around the country are making the best of the resources they have. Jenny from my home state of South Australia wrote to me about how further funding would change her child's future. She wrote:

My 7 year old goes to a public school in a low socio economic area. Many of the children at this school come from disadvantaged back grounds. All of these children deserve to receive a high quality education as do all children.

All of the staff—from the principal down—are passionate about education and give much of their own time and so much energy to providing the children with tools they need to learn the best they can. It is not just empty rhetoric at my child's school when they say that EVERY child has the right to learn. This school already does amazing things but could do so much more with a fairer funding model that truly does help those most at need. This will not just benefit these children. It is a benefit to the whole of society to support its most vulnerable members. I know this is a cliche but "society is only as strong as its weakest members".

It is my belief that we, as a nation, cannot afford not to provide good education to all.

Sara from New South Wales wrote to me about the importance of providing extra support for rural schools, as recommended by the Gonski review. She wrote:

I live in a rural area on the mid north coast. The local government school is the heart of the community in a disadvantaged area. Our school has only 20 children.

When it comes to staffing, the school is only eligible for one full time teacher/principal and one part time teacher.

Could you imagine being the principal, doing all the myriad tasks that job entails, as well as being a full time teacher for K-2? And then when the other teacher is not there, teaching 20 children 7 different levels of education?

I am full of admiration for the principal of our school; but how long can a person keep this up for? Please help our school and all public schools to be able to support our children. Schools are the heart of the community, especially a little community like ours.
Many schools from all over the country are also participating in the current Senate Select Committee on School Funding. Johns River Public School, in New South Wales, is one of hundreds of schools urging the Abbott government to fund the full six years of the Gonski scheme. Johns River say they will use the money to 'maintain and develop relationships and connection with local Indigenous community, provide additional support for student welfare and provide resources to support parents in parenting successfully'. They said:

To enhance student outcomes we need to fund all students to the minimum level set out in Gonski as the student resources standard and provide the loadings. This will only be done if we get the full six years of Gonski!

Tammy, from South Australia, contacted me about the importance of the loadings for disadvantage, including disability. She wrote:

I am a teacher and also a parent of three boys, two with special needs.

In my work and at home I see the need for more education resources on a daily basis. I have experience in both primary and secondary, both private and public, high socio-economic and low. Wherever you go you see the same thing—kids with additional needs need more resources, more time, more support—and it all costs money!

Gonski's plan to provide more to all, and based on need, is so simple in its effectiveness … all we really need to do is make education a priority. It's the future of our nation, and the world!

Lisa, from Victoria, wrote beautifully about the social and economic imperatives for action:

Our whole country benefits when those who couldn’t become those who can. As a nation we must move from those who could make a difference to those who will make a difference …

If the Liberal Party ignores the community's pleas for the full six years of funding, thousands of schools will remain below standard. I again call on Education Minister Christopher Pyne to get behind the Gonski reforms—to get behind them with sincerity, to get behind them with heart. It is not just about the dollar figure; it is about the targeted strategy to address the genuine inequality in our schools. Inequality compounds disadvantage and squanders human potential, and it has huge economic costs.

I will give the final word to Scott:

I am in year 9 at high school in Victoria, my school is under-resourced and teachers are trying their hardest with what little they have.

Teachers need better pay. Schools need more targeted funding and more of it.

Don't put our education at risk. Don't trash our futures.

National Schools Constitutional Convention

Senator SMITH (Western Australia) (20:47): I rise this evening to reflect on the communique of the 19th National Schools Constitutional Convention provided to the President of the Senate and presented to the Senate last week. The National Schools Constitutional Convention seeks to promote understanding and informed discussion amongst young Australians about the Australian Constitution and system of government. Its three main aims are to provide an opportunity for senior students to explore constitutional issues; to encourage those students who are informed and actively interested in the Australian system of government to pursue this interest; and to increase student awareness of key constitutional matters.
The specific purpose of the 19th national convention was to introduce and inform student delegates about the current allocation of legislative responsibilities in a number of international constitutions and to consider why these take the form that they do. Attention was given to discussing the listing of the Commonwealth powers that are defined in our national Constitution and students were asked to consider as a debating topic whether there should be a change to include water and health as Commonwealth powers.

The national convention this year was entitled 'Australian Federalism—States' Rights and National Priorities'. I am very confident the national convention was a wonderful opportunity to learn more about our nation's Constitution and to encourage students who are informed and actively interested in the Australian system of government with a very practical opportunity to increase their awareness of key constitutional issues. I congratulate the 15 Western Australian students who had the opportunity to travel to Canberra and participate in the national convention.

As the new government puts its mind to meeting its election commitment to present a white paper on federalism in its first term of government, it is timely to reflect on the virtues of Australian federalism. The evolution of the Australian Federation is rooted in a deep understanding of the need to limit government while ensuring it is used to preserve a free society. The structure of Australia's three-tier system of government is something that has been frequently revisited over the 112-year history of Australia's Federation. In times past, the debate often centred around which of the three levels—local, state and federal—was best placed to deliver services or take responsibility in particular areas.

More recently, however, the tone of the debate has ceased to be merely contemplative and has morphed into a determination by some to rid Australia of at least one tier of government. It now seems almost a matter of daily routine for there to be debate in one quarter or another about whether Australia really needs to have three levels of government. For adherents to classical liberalism, the reply to this question should be an unequivocal yes. The focus of the debate in Australia has tended to be on the role of the states. Abolition of state governments is a long-held desire of parties on the left of our politics. More recently, however, the idea seems to have found favour with some figures on the centre-right.

Yet the retention of Australia's three-tier system is essential. More than anything else, it guards against political tyranny. In examining any system of government or constitutional arrangement, classical liberals should concern themselves not with the exercise of power but with its limitation. In practical terms, in a country as geographically diverse as Australia, some division of power is also necessary as a bulwark against the implementation of poorly designed policies which may not be appropriate for particular locations or populations, however well-intentioned their advocates may be. Moreover, Australia's present three-tier system of government promotes democratic accountability. Were the states to be abolished, it would actually weaken the ability of citizens to hold decision makers to account for their failures, as their voices would be drowned out by the much larger national chorus.

By any standard, Australia's Federation has proven remarkably durable and united since it came into being on 1 January 1901. This is all the more remarkable when one considers that, in the main, Australians were reticent about Federation. Those liberals who were most influential in the movement—Alfred Deakin, George Reid and the fledgling nation's first Prime Minister, Edmund Barton—are today remembered for their eloquent arguments in
support of Federation. Less well remembered, perhaps, is that every ounce of their energetic advocacy was needed to overcome some trenchant opposition to the proposal. As Sir Robert Menzies noted, 'We federated with a great deal of reluctance—in other words, the centrifugal forces, the disjunctive forces, were in fact at their strongest just before the argument about Federation began.' A shared concern among supporters and opponents alike was the need to impose constraints upon the powers of any new federal government, particularly to guard against any attempts to impose the will of the central government upon state governments. This concern was naturally more fervent among the less populous states.

Little appreciated, however, is the biblical influence that the work of James Bryce and his book *The American Commonwealth* had on the delegates at the constitutional conventions of the 1890s. The book focuses on the benefits of sharing powers between a federal government and the states. The book was:

… quoted or referred to more than any other single work; never criticised, it was regarded with the same awe, mingled with reverence, as the Bible would have been in an assembly of churchmen.

Liberalism is based upon a suspicion of government power. From a classical liberal perspective, the best form of government is one that has its powers checked and diffused among several bodies. To abolish the states would represent a fundamental subversion of the intentions of those who drafted Australia's Constitution.

When it comes to deciding which level of government should do what, classical liberal theory matches well with what practical experience in Australia has routinely demonstrated. Liberalism holds with it subsidiarity, the view that decisions are best made at the level most proximate to those upon whom the decision will most impact. Common sense would dictate that this is the most desirable approach. Just as it makes little sense for local government to involve itself in defence policy, so too should adherents to classical liberalism be suspicious of attempts by the national government to involve itself in those matters that are the preserve of state and municipal governments. To put it simply, each level of government should do those things for which it is best equipped, both in terms of proximity and resources.

The Commonwealth should focus primarily on those tasks set out in section 51 of the Australian Constitution, which, because of their magnitude, cost and historical legacy, require a national response. This includes matters such as foreign affairs, defence, the payment of pensions and citizenship. Also included are matters which, by definition, cross state boundaries, including banking and communications.

The states should focus on those matters not specifically listed in section 51 and which, due to economies of scale, cannot be reliably managed by local government authorities. Primarily, this means the provision of public services in health, education, the maintenance of law and order, and utilities and transport.

The primary task of local government should be to provide those services essential to the day-to-day functioning of the communities they serve. This includes the maintenance of local infrastructure, waste management and the maintenance of public recreational spaces. The perfect future scenario is one where each tier of government creates its own competitive tension, both intrajurisdictional and interjurisdictional, in a manner that reduces economic costs while increasing personal liberties.
Ongoing public dissatisfaction with service delivery in key policy areas over recent decades seems, on the face of it, to have engendered a public sentiment that favours Commonwealth intervention, or even takeovers, in areas that have previously been the primary responsibilities of state governments. Health and education are the two most obvious examples but, more recently, the Commonwealth has sought to involve itself in a range of other areas. The Commonwealth's efforts to exert influence in these areas are generally presented as an attempt to simplify, harmonise or end the blame game.

However well meaning the advocates of Commonwealth takeovers may be, their fervour cannot disguise the fact that there is simply no evidence that the Commonwealth government is any better at service delivery than the state governments it seeks to usurp. The provision of crucial services in areas like health and education is acknowledged by all to be a complex business, necessarily involving structures to manage the flow of information, identify problems and implement solutions. It is difficult enough to undertake this work at a state level and there is no compelling evidence to suggest that patients would be healthier or that students would obtain better results if all their services were directed from Canberra. Nor can anyone say with confidence that services would be delivered more efficiently by the Commonwealth than the states. Historic experience in Australia has repeatedly demonstrated that the Commonwealth is actually very bad at service delivery.

Classical liberal theory holds that, if political power is to be granted to individuals or institutions, it must be accompanied by a system of checks and balances to guard against abuse of that power. To abolish one or more of Australia's three levels of government would run counter to that view. In particular, were state governments to be abolished, it would permit a constitutionally emboldened federal government to impose its will on communities very distant from it and, in some cases, strongly opposed to it.

Anzac Day

Senator POLLEY (Tasmania) (20:57): I rise tonight to reflect on Anzac Day, the 2nd/40th Battalion and what is being done to remember those who have sacrificed their lives for this country. Regardless of one's political beliefs surrounding more recent military engagements, the Australian community continues to hold in their hearts enormous affection for Anzac Day and, in turn, the men and women who have served our country.

Anzac Day is a day to remember those who have lost their lives, to reflect on their memory and to pay tribute to their legacy. When we do this, we reflect on the values which those past and present have fought for. The 25th of April is increasingly becoming a day to reflect on the strength and spirit of Australian culture and I unquestionably support this endeavour. It is also a time reflect on our soldiers' service and the continuing burden that many veterans face as the physical and mental scars of war never fade.

We must also pay homage to our soldiers' families, for their unwavering commitment to their loved ones. We must also think of the family, whose loved ones do not return from deployment. For those who do not return home, their families are left with the ever-present feeling of emptiness. Without question, we must do all we can to support these families.

Four words have come to embody the spirit of ANZAC: courage, endurance, mateship and sacrifice. Those four words are extremely appropriate when considering the sacrifice of the 2nd/40th Battalion.
For those of you who are not aware, the 2nd/40th was a battalion of the Australian armed forces recruited mainly from Tasmania, with 795 out of the 919 boys in the battalion calling Tasmania home. This battalion took part in fighting against the Japanese on Timor in 1942. Outnumbered and lacking supplies, the majority of the 2nd/40th's personnel were captured and spent the rest of the war as POWs. It gives me immense pleasure to say that 14 men from the 2nd/40th Battalion are still with us today. However, 264 young men from the 2nd/40th Battalion lost their lives—74 in battle and 191 in captivity.

I now want to take you on a journey of these men's sacrifice and let you know what is being done in Tasmania to remember these heroes. In July 1940, the young men of the 2nd/40th started training at Brighton, Tasmania. They moved to mainland Australia in 1941. In March of that year they moved north to Katherine in the Northern Territory, the remainder of the battalion arriving there on 25 April 1941. They trained in Katherine before moving on to Darwin.

In December 1941, the Japanese entered the war in the Pacific. The 2nd/40th were transported upon the *Zealandia* and the *Westralia*. They arrived at Timor on 12 December 1941 to form part of Sparrow Force, which was tasked with defending the island against invasion. Japanese air strikes began in January 1942 as a precursor to the invasion that finally came on 20 February 1942 with Japanese soldiers carrying out airborne and beach landings across the island. Outnumbered and with limited supplies, after the initial contact the battalion destroyed the airfield and moved inland, reducing a number of Japanese positions as they went. This included an attack upon Usua Ridge, where the Japanese 228th Infantry Regiment suffered at least 123 casualties on 22 February.

By the next morning, 23 February, circumstances had changed dramatically. The young men found themselves in a desperate situation. The battalion was surrounded near Champlong. Lacking cover from enemy fire, the young men were presented with an ultimatum: surrender to the enemy or be subjected to a full-blown aerial bombardment that would destroy the entire battalion. Lieutenant Colonel William Leggatt was forced into the unenviable position of having to surrender his command. As a result of this decision, the 2nd/40th Battalion was captured by the Japanese.

Although some managed to escape, the majority of the young men were taken as prisoners and spent the rest of the war in captivity in camps throughout South-East Asia. These camps were scattered across the region, with Australian soldiers in captivity in Java, Burma, Thailand, Japan, Singapore and Sumatra. The conditions these men found themselves in were nothing short of disgraceful. There really is no other way to describe it. Unfortunately I do not have time tonight to go into the full detail. Ultimately these men would not return to Australia until September 1945.

So many Tasmanian lives were touched by the terrible fate of the 2nd/40th Battalion. According to historian Rod Stone, who is also my friend, men from one in 10 of the island's families joined the battalion during the Second World War only to lose their lives or be taken prisoner by the Japanese—one in 10 Tasmanian families! The heartache and stories of these men are very close to my heart, as my father was a member of the 2nd/40th. My father was one of the lucky ones who did return home after surviving for 3½ years as a prisoner of war—surviving both working on the Burma Railway and Changi.

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CHAMBER
Rod Stone is of the view, and I share his view, that Tasmania's culture was shaped by the men of the 2nd/40th and their sacrifice. The effect of their enduring sacrifice was felt in Tasmania. It touched so many Tasmanian families that being affected in some way was inescapable. Consequently their story permeates Tasmanian culture and history. However, there are people who have not heard of the 2nd/40th, which is one of the reasons I stand here before you tonight.

As I detailed, the 2nd/40th fought against the Japanese. Over the years, much has been said in this place about this battle. In fighting the Japanese, they fought against incredible odds. The Japanese fighting force was more experienced and better equipped than our forces. The equipment of Sparrow Force was outdated. The rifles they used were from World War I. But they were tenacious and they fought with courage and distinction. They made Tasmania proud.

On 23 February last year, my brother Michael and I had the honour of officially dedicating a memorial garden in Launceston to the 2nd/40th Battalion. On that same weekend, a simple stone memorial commemorating the battalion was unveiled in Hobart. These memorials will accompany a plaque at North Motton in Braddon and a small memorial at Greens Beach in memory of the sacrifice of these men. I was honoured to give the dedication at the memorial. There was a real sense of peace among the many people in attendance. I felt that the memory of the men was regained and recognised, while the feeling of loss for the men who were no longer with us was heartfelt. It was a truly special tribute to the men who left Australia 72 years ago. In addition, we heard many of the stories of their widows and wives— the raising of their families—which were profoundly moving. It was a nice closure and a mark of respect to be able to honour the 2nd/40th Battalion.

Rod Stone has been the real instigator and coordinator of the two memorials in Launceston and Hobart. If it had not been for Rod Stone and all the effort he put in to ensure the creation of these memorials, they simply would not be standing where they are today. So I wanted to put on record my thanks and my family's thanks—and, I am sure, the thanks of all those who served in the 2nd/40th—to Rod for all his tireless campaigning. It has not been easy to obtain recognition for these men, but now their families have a place to go to remember their sacrifice. Those families and their descendants will, for years to come, have somewhere to go to remember those lost souls.

It is sad to see this government attacking the sacrifice of our soldiers by ripping away the meagre $250,000 in benefits going to the orphans of those who sacrificed their lives for this country. As 25 April approaches—and we will not be in this place then—I wanted to make a contribution to those men and women who gave their lives and to those who did come home but suffered, along with their families, the scars and the injuries of war. Lest we forget.

**Sri Lanka: Human Rights**

**Senator SINGH** (Tasmania) (21:07): This week the eyes of the international community are turned to the issue of human rights in Sri Lanka and the continuing efforts to restore its democracy, rebuild its economy and reconcile the parties to the debilitating conflict that was waged across the island for more than a quarter of a century.

In Geneva on Wednesday, 26 March the United Nations Human Rights Council will consider a motion on the Sri Lankan civil war. The United States and the United Kingdom,
together with others committed to transparency and reconciliation in Sri Lanka, have sponsored a motion at the council calling for an inquiry into the commission of war crimes and humanitarian abuses in the final stages of the war. This is the third motion on this issue in the last three years, with the international community growing more and more concerned about the need to address allegations of serious offences by both sides.

In 2012 and 2013 Australia supported the council’s resolutions which urged the Sri Lankan government to adopt the findings and recommendations of its own Lessons Learnt and Reconciliation Commission, recommendations that included a credible investigation into extrajudicial killings and disappearances; demilitarisation of the north; land dispute resolution mechanisms; reviewing detention policies; strengthening civil institutions; finalising provincial devolution; and freedom of expression and rule of law reforms. These concerns have been reinforced by statements from the UN High Commissioner for Human Rights, who, after a visit last year, has called for a full, transparent and impartial investigation into the conflict that examines violations by both sides.

The importance of this issue has been raised in a letter to the Prime Minister, Tony Abbott, on Monday, 24 March from a group of eminent Australians, including Malcolm Fraser, Gareth Evans, former NSW Liberal Attorney General John Dowd, Geoffrey Robertson QC, Professor Gordon Weiss, and Owen Harries, former Australian Ambassador to UNESCO. The letter calls for Australia to use its position to support the UN Human Rights Council motion and constructively engage with the Sri Lankan government and the international community on the issue of human rights and the international independent inquiry.

The challenges of building peace in a country whose foundations have been damaged by decades of violence are immense, and all the courage Sri Lanka’s people showed in enduring one of the world’s longest and most brutal civil wars will be needed to face these challenges. In doing this, they will need assistance from an international community ready to engage with, discuss and support them in dealing with the difficulties and complexities of a post-conflict society.

The position of Australia is being watched closely. We are a nation that has, historically, advocated the value of human rights at a global level, and we supported the 2012 and 2013 Human Rights Council resolutions. We are also a neighbour of Sri Lanka across the Indian Ocean and a destination country for those fleeing repression within its borders. Thus far, Australia has not added its name to the motion as a sponsor, and its lack of action on the issue has yet to be explained. Important allies, such as the US and UK governments, among others, may well ask why Australia has failed so far to support their efforts to ensure there is a credible investigative process put in place. In fact I recognise the lead that both the US and UK governments have taken in this particular motion being brought forward to the United Nations Human Rights Council.

A motion calling for Australian support of the motion before the Human Rights Council was debated in the other place on Monday, 24 March, moved by the shadow minister for foreign affairs, and I recognise the work of Tanya Plibersek both inside and outside the parliament in the formulation and debate on this issue. It noted that the high commissioner had recognised the progress made by the Sri Lankan government since 2009 in relation to de-mining, resettlement and reconstruction, and rehabilitation. Alongside physical rebuilding,
however, there must be national mechanisms to establish truth and achieve justice in order to achieve real reconciliation and a lasting peace.

I commend the substance of this motion that has been put forward by the UK and US governments, calling for an international inquiry into human rights violations in the Sri Lankan war, taking into account the efforts that have already been made and the reports into this topic that have been undertaken, including the Sri Lankan government's own LLRC report.

In situations where there has been widespread and serious abuse of human rights during and around wartime, the international community has played an essential role in the investigation and prosecution of crime in order for the truth to be told and justice to be done, and to open up the possibility of reconciliation between the parties to the conflict. The International Criminal Tribunal for Rwanda and the International Criminal Tribunal for the former Yugoslavia are examples where the prosecution, judges, courts and infrastructure necessary to investigate and administer justice around genocide and war crimes have been drawn from the broader global community.

Despite the Australian government's position thus far to not sponsor the motion in Geneva, Australian civil society has been active. The Public Interest Advocacy Centre, through its ICEP project, has undertaken a forensic analysis of the alleged crimes and the conduct of all parties to the conflict in its report Island of impunity? The Human Rights Law Centre has also addressed issues of war crimes and breaches of humanitarian and human rights law. Amnesty International and Human Rights Watch have also provided important information on the situation.

The PIAC report identifies a number of key areas to which an inquiry could be addressed and which would form the basis for any prosecution for war crimes or breaches of humanitarian law, including the following findings: it is 'reasonable to conclude' that security forces used indiscriminate area bombardment as a means of attacking the no-fire zones, which were safe areas densely populated with civilians. Intentionally or recklessly attacking civilians is a war crime under the Rome Statute of the International Criminal Court. The report found:

There are reasonable grounds to suspect that, by shooting civilians who were attempting to escape the conflict zone, LTTE members committed murder both as a war crime and crime against humanity, and may have also committed the war crime of cruel treatment and/or the crime against humanity of inhumane acts.

It is in Australia's interests to support reconciliation, openness and justice in Sri Lanka. Having a secure and democratic neighbour in the Indian Ocean that protects its citizens and has resolved its internal conflicts is essential for the greater security of our region. It also works to reduce the levels of persecution and abuse that force asylum seekers to take dangerous voyages by sea to seek protection elsewhere, including in Australia. But before this can be achieved the international community needs to help Sri Lanka address the profound difficulties of postwar reconciliation and the truth and justice that are essential to any real dialogue between the groups. Australia should assist Sri Lanka by supporting a credible process that can help bring it about. That is exactly what the UN Human Rights Council motion that is being debated in Geneva, to be voted on within the next 24 to 48 hours, is all about. I urge the Australian government to vote with the UK and the US in support of this motion.
Western Australia Senate Election

Senator LINES (Western Australia) (21:16): In just over two weeks, Western Australian voters will make history when they become the first electors to vote in a stand-alone half-Senate election. This election provides a unique opportunity for Western Australians to take a close look at what Prime Minister Abbott said and promised when in opposition and what he has actually delivered in government.

Just over a year ago, whilst in opposition, Mr Abbott said how much he admired and respected the Western Australian Premier and how much he wished to model himself on Mr Barnett. At the Liberal campaign launch for the Western Australian state election, Mr Abbott said

… how much I respect the Premier of this state, how much I have learnt from him, how much I wish to model myself on him, should I get the opportunity to lead our country.

So obviously, for a big clue about how Prime Minister Abbott wants to lead and the sorts of policies his government will pursue, we need look no further than Premier Barnett's record. What a record it is! It is a record of broken promises on road, rail, infrastructure, education and health.

Premier Barnett began his second term by losing Western Australia's AAA credit rating. What's more, Premier Barnett showed his complete lack of understanding of our economy in Western Australia when he said, 'It didn't matter much.' In another interview Premier Barnett said:

Debt is high and is rising. Why? Because this state is growing.

Mr Barnett went on to say further that his government was:

… investing in hospitals, in schools, in improving our capital city, road projects, regional development and the like …

Mr Barnett then went on to say that he did not apologise for the high debt.

But actually he has not delivered on any of those promises—not one of them—because every single infrastructure project he promised before the election has now been scrapped. Then there are the severe cuts in Western Australia. They are cuts that come as a result of further broken promises. With Prime Minister Abbott, we have already seen broken promises on a number of key issues—particularly education. So far the Prime Minister is being like his role model, the Premier of Western Australia.

In addition to losing our AAA credit rating, Premier Barnett has cut $183 million out of Western Australian schools. That is 500 jobs. He stood there, with his Minister for Education, and announced in the parliament that 500 jobs were to go, as if that were some proud milestone achievement. There is no money for capital infrastructure; there is no money for capital investment. These cuts go further than that, because they scrap programs which were aimed at supporting vulnerable children. That was against his election promise where he guaranteed to deliver the highest standard of education. He went further and promised superbly built and designed schools. Yet we have seen school capital investment slashed for school after school throughout the whole state of Western Australia. Schools people thought were going to be built—and they probably voted on the basis of that—have now been scrapped.
So school upgrades have been scrapped, along with 500 jobs. On top of these severe cuts to Western Australian education, there is the backflip of Prime Minister Abbott and Minister Pyne's unity ticket on Labor's fairer and more equitable funding plan, which was designed to improve student performance. The Prime Minister joins Premier Barnett and breaks that promise on education.

So yes, the Western Australian Premier and the Prime Minister, Tony Abbott, are alike—neither can be trusted on school education. But Premier Barnett's cuts and broken promises go on and on, on an almost daily basis: road funding, cut; light rail, cut; airport line, cut. It is impossible in Western Australia to take public transport to our international airport—absolutely impossible. There is no public transport available for visitors from other states and overseas if they are using the international airport—what an embarrassment.

On health, the Premier and the Prime Minister are on a unity ticket—a unity ticket of ignoring the health of Western Australians. Our state-of-the-art, brand-new flagship hospital, the Fiona Stanley Hospital, is a mess. It is like something out of the comedy show *Yes Minister*. It is a complete fail by the Barnett government—fully costed and paid for under Labor but wrecked under Barnett. It remains closed and is scheduled to open not in a couple of months but at least one year behind its scheduled opening time. In addition to that, Premier Barnett, the Liberal Premier of WA, has contracted out almost all of the services at Fiona Stanley Hospital. Who have they contracted that out to? The detention centre contractor Serco—with no track record of running hospitals in Australia. Its only track record is in running prisons.

The cost of the Fiona Stanley Hospital, our flagship hospital, being closed is $261,000 a day. It is more than a quarter of a million dollars day after day that that hospital is closed. On that alone, the Prime Minister's role model, Premier Barnett, should resign—a quarter of a million dollars a day of Western Australia's money just going down the drain at Fiona Stanley Hospital.

But Mr Abbott and Premier Barnett's unity ticket on health does not stop there. The WA Liberal Premier has backflipped on the new children's hospital and has been criticised by health professionals, including the AMA, for again failing to deliver what Mr Barnett promised to. This again becomes like something out of *Yes Minister*. Despite completed architectural plans, the size of the children's hospital has been scaled back from three floors, which was promised at the election, to two. And what does our Premier say about that? He thinks you can simply put another floor on once the hospital is complete and there is more demonstrated need. Again, all the experts have said that is impossible and, even if you did, it would cost triple what it would currently cost.

What is our Prime Minister's record on health? Let us look at Medicare Locals. Who knows what the eventual fate of Medicare Locals will be? The Prime Minister still has not quite finished flipping and flopping on their fate. They were originally destined for the scrap heap under a coalition government. In the lead-up to the election campaign—perhaps the Prime Minister then visited one and saw that they were actually quite a vital part of local communities—we then got an election promise to keep them. Now of course, once in government, they are under review by the Prime Minister. Medicare Locals are playing a vital role in the delivery of health services in Western Australia.
Just one example of the provision of health services to vulnerable people in Western Australia in local communities is the Street Doctor program. These services provide street access to GPs for people who would not ever access mainstream health services, whether it is their local GP or an emergency department. These are generally homeless people or people with complex mental health needs who simply do not access the sorts of GP and other specialist services they need but they do access the Street Doctor program. Watch this space, I say, because I know that the word 'review' uttered from the mouth of the Prime Minister does mean cuts.

The RAC, our local automobile club, has called on the state government and the Premier—the man the Prime Minister wants to model himself on—and said that now is not the time to shelve vital infrastructure projects. For those truly interested in Western Australia, which is obviously neither Premier Barnett nor the Prime Minister, congestion is a major problem. Neither the Prime Minister nor Premier Barnett has shown any interest or inclination in fixing this issue. Of course we know congestion is a cost to business. It impacts on productivity and revenue and is a weight on the economy which cannot be ignored, according to the RAC. The RAC goes further to say that congestion by 2020 in Perth—whilst the Premier sits by and does nothing—will be a great cost to our economy, a cost of $2.1 billion every year.

The Perth Lord Mayor has criticised the decision to delay the light rail project. The Lord Mayor says the decision came as a shock. A lot of work had been done leading towards an implementation of the light rail system. But of course the Lord Mayor is very disappointed to hear of the cancellation of the light rail route. Again, the Lord Mayor was promised funds for this and was very supportive of the idea of light rail to provide greater public transportation for a lot of people.

Then there is the community of Ellenbrook. Ellenbrook must have really upset Premier Barnett, because it was promised light rail, fast transit buses and a new high school. For that community of Ellenbrook, which is incredibly isolated in the eastern suburbs of Perth, all of that has now been shelved. Every single project promised to the residents of Ellenbrook during the last state election has now been scrapped. This makes me wonder whether the Prime Minister still thinks that modelling himself on the Premier of WA is a good idea after the mess that Premier Barnett has made of the WA economy—our roads, our rail system, our schools and our hospitals.

The Prime Minister is adding to the woes of the business and community groups of Western Australia by refusing to commit to arrange of social welfare programs whose funding will finish at the end of this month. The Prime Minister will not commit to the National Partnership Agreement on Homelessness, he will not commit to the National Rental Affordability Scheme, he will not commit to fund emergency relief and he will not commit to fund financial counselling. This means that community organisations using these funds to support vulnerable West Australians will be left high and dry, along with their clients, in the next month or two unless the Prime Minister makes a commitment now. These are real issues that affect Western Australians every single day, and the great work that our community organisations do in providing for those who are least able to provide for themselves is being ignored by the Prime Minister. This is all on show for Western Australians who in just a couple of weeks, on 5 April, will vote again in a unique half-Senate election. They will be looking at the Liberal government's record and they will find it wanting.
What do the Prime Minister and, indeed, the West Australian Liberal senators who are up for election think about Western Australia? Judging by the comments they make in the Senate, Liberal senators see WA as one huge mining town. That is all they ever talk about—the mining industry. They rub their hands together and think of all the iron ore, oil and gas dollars that they can bring to their government. They continue to mislead Western Australian voters on the carbon tax. Labor attempted to amend the clean energy bills, scrap the carbon tax and bring forward an ETS, but the government and the Greens voted against Labor's amendments. In my view and in the view of many Western Australians, it suits the government to keep the carbon tax and to continue to try to mislead Western Australian voters before the half-Senate election.

How long will their lies continue? Their lies are not having an effect because Western Australians can see for themselves as they drive around and get caught up in the horrific congestion problems that Western Australians face every day. They can see the mess that Premier Barnett has made of Fiona Stanley Hospital, which is costing Western Australians a quarter of a million dollars every single day because Premier Colin Barnett has been inept in not managing to get that hospital open. I do not know of another hospital that is at least 12 months behind its opening date, and we are a long way from April next year. So who knows what the date will be when we get to 2015?

There are many issues in Western Australia that Prime Minister Abbott and the Liberal Western Australian senators are ignoring. The high cost of housing in Western Australia is one area. The Prime Minister believes the market will provide and thinks a booming housing market—a market where the cost of housing is increasing—is somehow good for our community. He has yet to explain how first home buyers get a foot into this booming market with housing prices increasingly moving out of their reach. Housing stress is a real issue in Western Australia, but one ignored by the Prime Minister and Liberal senators.

The Prime Minister and Liberal senators will shut down trade training centres. They have obviously never visited the Pinjarra Waroona Trade Training Centre to see the partnerships it has created with local businesses and to see how both students and teachers are very proud of their brand-new, state-of-the-art facility, to see how this trade training centre has brought their neighbouring school Waroona District High School and Pinjarra High School together. At the opening of this impressive facility, the president of the Shire of Murray said he was impressed with the centre and very pleased the government—and, of course, he was referring to the Labor government—was putting funds into projects such as the centre. The president went on to say that Pinjarra was experiencing about a five per cent growth each year and it needed facilities like the trade training centre to cater for growth. But communities like Pinjarra and Waroona are ignored by the Prime Minister and WA Liberal senators because they are not big mining centres.

What is their answer when parents ask why Western Australian schools are not equal? The Prime Minister and Western Australian Liberal senators want to slash first and ask questions later. WA voters will not be fooled and they know that on 5 April the only safe option is to vote Labor in the Senate.
coming into government, have a spate of Liberal MPs caught up in investigations at the Independent Commission against Corruption. While the corrupt activities of MPs hold a particular interest, we should not let that overshadow the analysis of the cooperation between the major parties that has delivered a weak legislative and regulatory framework that provides very little protection against corruption. The slippery slope can be seen in Sydney with a disturbing rush to commercialise public assets and exclude the public from publicly owned crown land in New South Wales.

Tonight, I wish to draw attention to a series of actions by the Crown Lands Division of the New South Wales Department of Trade and Investment as a result of which a perpetual crown lease of land to the Paddington Bowling Club was transformed over two years into a commercial 50-year lease to property development company CSKS Holdings. This valuable open space land, which is currently occupied by Paddington Bowling Club, is on the edge of Trumper Park, a park in Sydney's inner east. Residents and local councillors have been trying to preserve this land for public recreation and community use for about eight years.

Many issues of concern arise out of this matter. Some of these are: lack of consultation by Crown Lands with local stakeholders, including Woollahra council; secret negotiations to initially sell and, more recently, lease land to CSKS Holdings, a company whose past and present directors have a long history of controversial and failed land deals and developments; an apparent failure of due diligence by Crown Lands, which is supposed to protect the public interest; a failure of corporate regulation; the handling of the club's receivership by well-known liquidator Andrew Wily; and, most recently, the use by the developers of a defamation threat to suppress public exposure of these matters.

The matter also involves two people who were involved in a Crown Lands scandal over land on Sydney's Pittwater in the dying days of the Labor government in March 2011. In December 2011, Tony Kelly and Warwick Watkins, Minister for Lands under Labor and ex-chief executive of New South Wales Land and Property respectively, were found by ICAC to have acted corruptly. Watkins later pleaded guilty for attempting to mislead ICAC. Kelly was not charged but he is now involved in another ICAC inquiry. During the period leading up to the New South Wales 2011 election that brought the O'Farrell coalition government to power, Kelly and Watkins were also involved in actions relating to the Paddington land.

A number of people who met with Labor ministers and then Registrar-General Watkins to raise their concerns about the land were surprised by the apparent determination to press ahead with decisions that favoured the Sanchez interests. A decision by Kelly, advised by Crown Lands officers, to add part of a public street as an access way to the site considerably enhanced the site's development potential. Later, the lease was also transferred from a perpetual one to a commercial 50-year one. This all occurred under the Labor government.

After the election, despite the cloud over the ex-minister and Watkins, the new Deputy Premier in New South Wales and Minister for Trade and Investment Andrew Stoner allowed the transfer of the Paddington Bowling Club lease to CSKS Holdings. This occurred in late 2011, when even a basic public record check would have revealed problems with both the management of the club and the business affairs of CSKS director Christian Sanchez. I will return to this aspect later.

Minister Stoner later granted approval for CSKS to mortgage and develop the land. I understand he may be having a change of heart. I read in the Wentworth Courier on 12 March
that, after a request from Woollahra councillors Andrew Petrie and Katherine O'Regan, Minister Stoner has now agreed to review the decisions around this lease. I trust that this will be a thorough review involving independent people who were not part of the original decisions. Local MP Independent Alex Greenwich and Greens Councillor Matthew Robertson have also called for an inquiry along with the local residents group, Friends of Quarry Street. I congratulate them on their efforts to protect the community's interest.

I first raised questions about the Paddington Bowling Club back in 2008 when I was a member of the New South Wales Legislative Council. An inquiry had been held into the affairs of the Paddington Bowling Club and the actions of a number of people, including Christian Sanchez's father Michael, whose company is Woollahra Gardens, and the company's administrator, well-known liquidator Andrew Wily, to gain control of the club's affairs. Woollahra Gardens later changed its name twice and is now the company CSKS Holdings. Frequent changes of directors, shareholders and names are characteristic of Sanchez's companies that make it hard for interested citizens to track responsibility for corporate actions.

This inquiry had been set up after the Minister for Lands Tony Kelly, advised by Crown Lands officers, had secretly agreed in 2006 to sell the land to Paddington Bowling Club, which in turn agreed to pass it to Woollahra Gardens. Sanchez's aim was to use the land for property development. The transaction was only prevented when Woollahra council officers discovered the approved sale and informed councillors of what was happening. The council, which should have been consulted in the first place, vigorously opposed the sale. After pressure from the mayor, Councillor Andrew Petrie, the then local member of parliament Clover Moore and others, licensing police carried out a four-month inquiry and recommended that the director of liquor and gaming establish an inquiry with judicial powers. While the inquiry was asked to investigate possible corruption, it only had powers to make findings of fact, leaving it to state law enforcement authorities to decide what action to take.

The inquiry was completed in 2008 and, along with Clover Moore, I was concerned that its report had not been made public and no action had been taken on its findings in relation to past actions or to present further damage to the club or the local community. In answer to my questions in the New South Wales Legislative Council, the then minister for liquor and gaming told me that authorities were still examining the report to see what action could be taken. While nothing was ever publicly announced, and to the disappointment of New South Wales police officers who had carried out the original investigation, it would seem that no action was taken. What is even worse, it would appear that many of the actions uncovered in the original investigation, including poor administration of the club and frequent licence breaches, were allowed to continue. The inquiry findings included a failure by the receiver, Andrew Wily, to investigate the validity of an approximate $1 million club debt for which the inquiring commissioner found there was no evidence. Despite this finding, the loan stayed on the books of the club and was used to keep the club in receivership until Crown Lands finally transferred the land from the club to CSKS Holdings at the end of 2011. However much money the club earned, it was always in debt.

There were also findings that showed that Michael Sanchez's relatives set up companies that benefited from lucrative contracts with the club. His company, owned by son-in-law Marcus Levy, who was also appointed secretary manager of the club, was paid $1.3 million
over four years. After the inquiry, Wily agreed to pay him even more. A company earned by Sanchez's daughter Vanessa was paid $686,737. There was also evidence that a business called Quarry Bistro was established at the club without any written agreement or commissions paid to the club. All the income from food sales went to Quarry Bistro. The current director of CSKS Holdings, Christian Sanchez, was, at different times, a director of Quarry Bistro.

While Marcus Levy was earning a high salary at the club, he and Michael Sanchez were becoming involved in the hotel trade. Michael Sanchez was reported by *The Sydney Morning Herald* to be vying with businessman Michael McGurk to buy the Crest Hotel in Kings Cross at the time when McGurk was shot in 2009. While the sale to Sanchez never occurred, Levy and Vanessa Sanchez were managers of the Crest Hotel bar during this period. The family also took up interest in the Allawah Hotel and the Lansdowe Hotel in Chippendale, where they were reported to be introducing poker machines. Andrew Wily is now liquidating the Sanchez hotel company, Benchmark Hotels. The Sanchez family property company, Benchmark Australia, is still registered, but an Australian Securities and Investment Commission search revealed that it has no directors.

The Sanchez families were not the only ones whose actions raise concerns. There are serious concerns that need to be answered about whether the club was deliberately kept in administration by liquidator Andrew Wily until Crown Lands agreed to transfer its lease for $1 to CSKS Holdings at the end of 2011. This was one of the longest administrations in corporate history. During this period, annual meetings were not always held and financial accounts were filed late or, as in the last three years, not at all. It is hard to see how this could justify not holding registered club meetings required by law. Surely members would want to know about these negotiations. Was the real intention to hide the negotiations from club members, the public and the council? Residents of Paddington had enduring concerns about the way the club was being conducted and lodged many complaints, some of which were upheld. It has been reported that several residents felt intimidated after receiving visits from people associated with the club after they had made complaints.

This is not the first time that questions have been raised about the conduct of Andrew Wily, who was deregistered as a liquidator for several months in 2003 after he was found by the Companies Auditors and Liquidators Disciplinary Board to have failed to carry out his duties properly in the external administration of six different companies. In those cases, too, minutes and reports had not been filed. Serious allegations about Wily were included in a speech by Senator John Williams in September 2011. Senator Williams spoke of complaints that Wily had appointed a litigation fund that appeared not to exist and had agreed to pay it $3.3 million for doing nothing. In one matter, Wily had consumed millions of dollars in fees in money paid to others. Wily had employed Vaucluse resident and standover man Jim Byrnes. I note that Senator Williams told the Senate that he received a threatening letter from a solicitor warning him against giving the speech. Needless to say, he ignored it. After the speech, Wily told *The Australian* that he denied all allegations. Wily was a close associate of Leon Nikolaidis, a solicitor who was jailed for fraud in 2008. Nikolaidis and Michael Sanchez were also business partners and involved together in a property development in Camden. Christian Sanchez was also involved as a director in this development company, providing guarantees for loans. The venture eventually failed.
Another figure that has played a key role is Brian Kirk, who represented the club and the Sanchez family interests in negotiations over the land. He was a long-term business associate of both Wily and Sanchez. Kirk has been President of the Paddington Bowling Club since 2004 and remains so today. According to evidence given to the inquiry, Kirk and unnamed consultants continued to negotiate directly with Minister Kelly, even after the sale plan had been called off. Details of these negotiations have never been made public, as some parts of the evidence were given in closed hearings. As a planner, Kirk has been involved in a number of other developments with the Sanchez family. He is a planning consultant on a current CSKS Holdings development proposal for the Paddington Bowling Club site.

From 2007 onwards, Michael and Christian Sanchez were involved in another development, Crows Nest Retail in North Sydney. Kirk was again their planning adviser. This development also struck problems when residents and North Sydney Council raised objections. This led to a financial crisis for the Sanchez family at the end of 2011. These events were litigated in an action by Bankwest against Christian and Michael Sanchez and others for which judgement was issued against the Sanchezes in September 2012. The bank obtained orders that money from the sale of property that belonged to the bank had been paid into Christian Sanchez's bank accounts in breach of trust. Christian Sanchez and other members of the family were ordered to pay more than $2 million to the bank.

In 2013 Michael Sanchez became bankrupt. These improper deposits into Christian Sanchez’s account occurred in the period leading up to the time when the Paddington land was transferred to CSKS Holdings and a mortgage was granted by the Commonwealth Bank over the property. These matters are still under investigation while Crows Nest Retail is being liquidated. Given all this, and more material that is on the public, legal and corporate records, it is hard to understand how the current New South Wales coalition minister, Andrew Stoner, could be advised by Crown Lands lawyers that he should transfer the Crown Lands lease to CSKS on 30 December 2011 and that the company should be allowed to mortgage and develop the land.

Questions about Michael Sanchez’s business dealings are not new. There had been questions over Sanchez’s property interests as early as 2002, when the Victorian Supreme Court found in relation to a development that Sanchez’s evidence was unsatisfactory. It also found that there was a consensus amongst the project team that Sanchez should be removed in the ‘sense that neither he or any interest associated with him should have ownership or a controlling interest’. In late 2011, an offer for CSKS Holdings to supply money to creditors was part of Michael Sanchez’s negotiations with the banks as he staved off bankruptcy. In the end, the bank rejected Sanchez’s offers and he became bankrupt.

In the light of court judgements at this time, it is even more astonishing that the minister and Crown Lands officers could continue to expect residents and concerned councillors to accept their description of CSKS Holdings as a ‘private equity financier’ of the club. Letters written on behalf of the minister continued to describe the transactions this way as late as February this year.

This affair raises serious questions about what due diligence is carried out when public assets are disposed of into private hands. This is especially serious at a time when so much public land in New South Wales is under threat. As current ICAC inquiries have shown, it is in the interface between public assets and services and private interests that so much
corruption occurs. While deals are made behind closed doors and without proper oversight, public interest will be betrayed and, as New South Wales residents are learning, corruption can flourish whether the Labor Party or the Liberal Party are in power.

One might have expected the events that I have described tonight would have been reported by the media. But, apart from reporting during the inquiry, these events have not been covered. Much has been said about how the media business model that supports the private media sector is failing. As revenues have fallen so have staffing levels. I am concerned that, in this situation, many stories of public significance are not getting the attention that local communities deserve when public regulation and decision making fails. This leaves small groups struggling to get the attention of public authorities. Indeed, I am aware that other communities with similar stories have been unsuccessful in attracting even minor media attention.

In this case, the independent online publication *New Matilda* took up residents' requests for investigative journalist and non-practising lawyer Wendy Bacon to investigate the situation. However, three weeks ago, shortly after *New Matilda* had published the first in a series of stories about the actions of Crown Lands, the club and the dealings between them, both *New Matilda* and Bacon received letters from Sydney lawyer Tony Brooks. Brooks himself was earlier a director of CSKS Holdings and was a witness to the land transfer documents in 2011. He stated that his client would only agree not to sue for defamation if the article was immediately removed from the *New Matilda* website, never republished and the legal costs of his client, Christian Sanchez, were paid. In those circumstances, as a small publication with very limited resources, *New Matilda* removed the article. Luckily, Wendy Bacon has her own blog and is continuing to publish the story.

It strikes me that, at a time when people are arguing in the name of free speech and the government are repealing 18C of the racial vilification act after a group of Indigenous Australians were found to have been vilified by *Herald Sun* columnist Andrew Bolt, we might do well to turn our attention to how small community groups and publications are denied their right to free speech on a regular basis by more powerful vested interests threatening use of the defamation laws.

It is important that Paddington residents succeed in protecting the public interest in this crown land. Currently, CSKS Holdings has formed a small company to build a childcare centre on part of the Paddington Bowling Club. On a broader level, we need to put in place mechanisms to make sure that public land is set aside for the benefit of citizens and the environment and is not traded away by corrupt or weak MPs into the hands of profit makers. We need proper consultation and the application of due diligence to protect current and future generations, and the community needs a vigorous media to make sure many concerns about the disposal of public land are heard and investigated.

**Bankwest**

**Senator EGGLESTON** (Western Australia) (21:56): In 2012 the Senate Economics References Committee conducted an inquiry into the post-GFC banking sector in Australia. That inquiry heard a substantial amount of evidence from mum and dad investors across Australia who had become confused by Bankwest calling in their loans and putting them into receivership when the market value of their properties had not reduced. As part of the evidence, many of these Australians, who owned valuable properties, consistently and
repeatedly provided examples of how those same assets were devalued and sold by the Commonwealth Bank and Bankwest for what they said was 'no apparent reason'. Such forced sales, known as 'fire sales' in the industry, caused witnesses a great deal of anguish and financial hardship. Many were left bankrupt, others were made destitute and some were mentally broken.

What makes this conduct seemingly inexplicable is the fact that many of these customers had not missed any mortgage payments, were not in any financial difficulty and were otherwise commercially viable. They had met all their obligations to the bank and met them in a timely way in most cases. For example, at the 2012 inquiry the committee heard testimony from everyday Bankwest customers such as Mr Guy Goldrick, whose viable residential development project was given 24 hours to repay $6.4 million. The committee also heard from Bankwest customer and hotelier, Mr Sean Butler, who, despite record profits, lost his family's wealth after being charged over $1 million in receivership fees. There is also the story of Mr Rory O'Brien, who was given 36 hours to repay $178 million from his luxury apartment development project, which was in fact completed and had already over $100 million in sales when it was put into receivership. It is hard to understand why a bank would put a development into receivership when it was already finished. Mr O'Brien's project was valued by the bank at $255 million and was eventually sold at the fire sale price of just $56 million—a mere 20 per cent of its previous $255 million bank valuation. All of his $100 million in sales were terminated.

Mr O'Brien has already had a significant law-changing victory over the Commonwealth Bank. In April last year the Supreme Court of New South Wales ruled that the bank's use of so-called suspension clauses—a clause in a loan contract suspending a customer's right to sue the bank—is unlawful when there is evidence of unconscionable, deceptive or misleading conduct by the bank. The actions of the Commonwealth Bank, as owners of Bankwest, in foreclosing on so many clients seemed incomprehensible on the face of it. However, recently an individual who has been a victim of forced foreclosure sale suggested that the capital provisions of the Basel accord banking rules seem to provide an explanation for the behaviour of CBA and Bankwest.

The Basel accord of capital adequacy sets out a staged, gradual increase in the quality and amount of capital held by banks in proportion to risk weighted assets or RWAs in order to maintain prudential standards. Failure to meet these standards has consequences for a bank's access to capital and ultimately their profit margin. If the incorporation of Bankwest's capital and risk-weighted assets put downward pressure on CBA's Basel ratio then, it was put to me, it would be in the Commonwealth Bank's commercial interests to remove certain customers from the balance sheet rather than risk a drop in the Basel ratio. Such a drop would decrease the CBA's profitability across all products through an increase in capital costs, among other things.

One could imagine that if the CBA was targeting the removal of products with high capital holding costs then commercial loans would be a logical choice, along with margin loans, as they are a higher risk than residential loans. It is interesting to note that Storm Financial customers were similarly aggressively defaulted without the issuing of a margin call by CBA on 9 January 2009—a mere three weeks after the Bankwest takeover by the Commonwealth Bank.
In the interests of balance, I have to say that CBA has repeatedly denied that it was able to further reduce the price paid for Bankwest after the purchase by impairing loans, known as a 'clawback'. In fact, at the 2012 Senate inquiry my colleague Senator John Williams asked of the bank's general counsel, Mr David Cohen:

So there was no clawback? You are saying there was no reason to go and make loans look bad?

To which Mr Cohen replied:

Absolutely none.

Furthermore, at the 2012 inquiry Senator Williams asked:

Just going back to the takeover of Bankwest, Mr Cohen, what did you pay for it—$2.1 billion, was it?

To which Mr Cohen replied:

Yes.

It now appears that this may not have been an entirely accurate answer, as the CBA did not pay $2.1 billion for Bankwest; rather, it paid $2.1 billion for Bankwest and St Andrews Insurance, combined.

The same individual who provided the information in relation to the Basel accord also advanced the view that CBA paid $63 million for St Andrews, which means that the actual payment for Bankwest was $2.037 billion, not $2.1 billion, as Australians and the Senate economics committee were led to believe. While this may seem a small discrepancy its potential impact may have been significant. Page 223 of the 2009 Commonwealth Bank annual report states that the CBA valued Bankwest at $3.676 billion as at 19 December 2008, the date of purchase of the bank. If we subtract the actual amount paid by Commonwealth Bank from the actual value of Bankwest we get an apparent discount of $1.639 billion. The question then arises as to why the Commonwealth Bank received such a price discount when Mr Cohen stated that the actual total of 'acquired provisions' for impaired loans was $630 million.

On page 30 of the Bankwest 2008 annual report is a section labelled 'Gross Loans and Advances to Customers—Impaired', showing a total value of $1.639 billion. That was the figure that was mentioned as the discount given for the bank. It would seem a reasonable inference that this $1.639 billion is not a coincidence. If it is true that the CBA got a price reduction exactly equal to the gross value of impaired loans in 2008 then this means CBA paid zero cents in the dollar for those impaired loans. This was clearly a massively significant motive to impair loans knowing that the losses would be passed onto British taxpayers through the British government's bailout of Bankwest's distressed parent company HBOS.

This then poses the next question as to why a bank would want to force customers into default when these businesses were otherwise commercially viable even in the midst of the global financial crisis. A plausible scenario may be that Bankwest and the CBA had separate motivations. Bankwest was effectively insolvent due to the failure of its parent company HBOS, leaving Bankwest unable to honour its financial obligations to its business customers.

On 30 September 2008, ABC News reported the then Managing Director of Bankwest, Mr Simon Walsh, as saying:

We're highly capitalised, we're highly liquid and with that customers' funds are safe with Bankwest.
However, as we all know, Bankwest failed. The reason for the failure was confirmed at the 2012 Senate Economics References Committee inquiry when Senator Williams questioned Mr Rob De Luca, Bankwest's managing director, about the health of Bankwest's parent company HBOS. Senator Williams said:

It went broke. I would call that serious trouble. Would you agree that they were in serious trouble?

Mr De Luca replied, 'Yes.'

It has been suggested by one of those impacted that the solution to Bankwest's insolvency was to default their customers before they found out. It has been brought to my attention that CBA's motivations for aggressively manufacturing defaults on customers may lie in the Basel accord framework. It was announced by the Commonwealth Bank during the 2008 period that the bank had progressed to the Basel II advanced approach accreditation and was also applying for a US Federal Reserve holding status, both of which require a greater capital burden. We know of course that simultaneously during this time there was a global financial crisis.

The APRA prudential standard 110 defines the Basel ratio formula as capital divided by risk weighted assets. If a bank is engaging in a strategy which requires a greater capital requirement during a time where capital markets are turbulent then the only option left to them is to reduce risk-weighted assets. A court could conclude the CBA had a predetermined outcome it needed to achieve and it opportunistically capitalised on Bankwest's dire financial situation by manufacturing defaults on certain customers to engineer the result that it wanted.

Mr Cohen previously wrote to the Senate, on 4 July 2013, stating that these allegations of induced defaults on performing customers are 'conspiracy claims'. Yet, a few months later in the UK, the Tomlinson report was released after an investigation into identical allegations that the Royal Bank of Scotland engaged in exactly the same conduct of inducing defaults on performing business loans to the benefit of the bank. This so-called conspiracy, which Mr Cohen flatly denied was an explanation, was actually happening in the UK at the same time it was impacting on mum and dad investors in Australia.

However, documents put to me by a person who was affected by the Bankwest collapse led me to believe that a further inquiry needs to consider this matter. It is suggested there was in fact a clawback price reduction mechanism. The clawback was not in the form of money being returned to CBA; rather, it was in the form of a $302 million offset against $328 million withheld funds from the purchase consideration of $2.428 billion. The purchase consideration was stated on page 4 of the 2008 HBOS annual report and confirmed on page 47 of the 2009 CBA mid-year report. It said:

(1) That despite Mr Cohen's statement that the price adjustment mechanism was designed to achieve a 'zero-sum' outcome CBA did in fact receive a $1.639b upfront discount based on Gross Impaired Loans, some of which CBA had … influenced. This meant CBA paid ZERO cents in the dollar for impaired loans;

(2) Quite simply CBA, with the incentive referred to previously, improperly and aggressively impaired loans which would not have otherwise been impaired by Bankwest, and;

(3) That given the imperatives of the Basel Accord referred to previously it was very much in CBA's interests to … impair otherwise viable loans. This had a two-fold benefit whereby CBA could:

a. Meet its Basel requirements; and
b. Clawback the loans off the purchase consideration of $2.4b to HBOS as well as receive benefits from the loans already impaired by Bankwest because of the inability to meet their customer loan obligations.

From this it seems apparent that there was a potential commercial advantage to the Commonwealth Bank in foreclosing on Bankwest clients.

The fact that CBA and Bankwest appear to have so easily been able to misuse the provisions within their credit contracts for non-monetary defaults raises the question of whether there is an urgent need to address the severe imbalance between the power of banks and the rights of small businesses to whom they have lent money. The implications of this conduct are profoundly serious and it has been suggested that the matter can only be resolved by establishing a public inquiry to establish the facts as to whether or not the foreclosures on Bankwest clients were driven by Basel accord requirements and whether investors need greater legislative protection.

**Health Funding**

**Senator O'Neill** (New South Wales) (22:14): I rise to speak on a matter that I consider to be of national interest—it is certainly something that excites me whatever time of day it might be—and respond to Minister Peter Dutton's call for a national conversation on the future of funding for Medicare and public health care in Australia. The very nature of conversations is that there are participants—listeners and speakers—and both feel empowered. Labor historically has always been very happy to engage in a conversation about the provision of decent public health care. In fact, if we were to identify historically who has been the initiator of those conversations, I think it is fair to claim that it is Labor who has said we need to talk about this, to discuss this issue and to make sure that the provision of medical services for the Australian population is at the forefront of our conversations. Of course, there is no better testament to the initiation and delivery of that conversation than the establishment of Medicare and its re-establishment after it came under considerable threat from other participants in the conversation who thought it was not of such importance.

Building and supporting our public healthcare network is essential Labor DNA and central to our very being as a party. We stand proudly on our record. From Medibank to Medicare and to the National Disability Insurance Scheme, which we initiated in the 43rd Parliament, Labor has delivered and expanded our public healthcare system to provide for all Australians. To Labor, universal public health care is an inalienable right, not a privilege to be whittled away or denied to those who are unable to afford it. Regardless of one's age, gender, wealth, ability or locality, access to a decent universal public health system is a core principle of Labor. It is a principle that we fought long and hard for—to establish, expand and deliver—and we fought harder still to protect it from the many attacks from those opposite, who have sought on too many occasions to dismantle or wind back access to health care.

In case Mr Dutton has been living in an alternative universe for the last 40 years—which, considering his tin-eared approach to public health funding, cannot be completely ruled out—our nation has long been engaged in a national conversation. This is nothing new. We have been talking constantly on this side of the chamber about the public funding of health care and the future funding of health care as the needs of Australians emerge and change. Ever since Gough Whitlam called a double dissolution election to pass Labor's Medibank reforms in the face of intransient Liberal opposition, this conversation on medical care and access to
medical support has for decades underlined one of the clearest policy contrasts between Labor and those who now abide on the government benches.

Put simply, Labor believes in delivering, expanding and protecting universal public health care to provide for all Australians—the young and the old, the rich and the poor, the city dwellers and the regional and remote citizens of this country. Under Labor, public health care is expanded, and funding is generally increased, to the benefit of all Australians. The coalition on the other hand have proven time and time again that they have a very different view of the way access to health care should operate. They have, in my view, complete disdain for the adequate provision of universal public health care in this country. We would have to see the enactment of the policies of those opposite as a reflection of their belief that health care is a privilege and that one's means appropriately determine access to decent health care, rather than one's needs determining one's access and the response that one receives.

History provides countless examples of this Liberal Party war on public health care. The coalition's shameful record in the area of health speaks for itself. It is that history we need to remember to inform the debate that is underway in this country right now. The Liberal Party enjoys notoriety for dismantling Australia's first universal public health care system, known as Medibank. For those who might be listening to this broadcast—there are precious few citizens here in the chamber to observe it at this time of night—the reality is that we have taken it for granted for the last 40 years that people have easy access to public health care. But it was not always that way. Despite the fact that the universal public healthcare system has been around for a long time, being able to go to your GP and access Medicare is unique to Australia and was formed in a particular way in Australia.

The dismantling of our universal public healthcare system, originally known as Medibank, by the Liberal Party is a very clear indication of the very different policy stands our two parties have on access to health. We on this side call it an act of policy vandalism. Australia is currently celebrating 30 years of health care but we should be celebrating 40 years. We were robbed of 10 years of health care because of the Liberal Party's decision to dismantle it. The vote against Medicare in 1983 and then the attempt to abolish bulk-billing in 1993 revealed that the Liberal Party is a party that cuts and decreases access to health care for Australians no matter where you live.

When Tony Abbott was health minister he cut $1 billion from public hospitals, broke a 'rock solid, ironclad guarantee' not to raise the Medicare safety net threshold and placed caps on GP training places, which resulted in 60 per cent of the country facing health workforce shortages. It was into that climate that the Labor government came and made massive investments in the training of young Australians to fill the positions in the healthcare sector—nurses, doctors and allied healthcare professionals who are now at the point of completing their studies and moving into the healthcare sector. That was Labor's vision and Labor's investment. It was Labor who provided the workforce that is now being celebrated right around this country in regional newspapers, as Liberal members from state to state across this country welcome the product of Labor's vision and investment in a proper and well-prepared health workforce.

But, despite all that and despite the celebration of the outcomes of Labor's visionary investment in health, we have Minister Dutton sitting on a commission of cuts, hiding the Liberals' sinister plan to impose a tax on people just to see their local GP. That is on top of
Minister Dutton's already flagged intentions to savagely cut from the health budget by abolishing key primary healthcare services, such as Medicare Locals and GP superclinics. I want to make some more remarks about those two amazing Labor policy initiatives, which were enacted in the last parliament, which have changed the way people access health right across this nation and which have improved health access and outcomes. Our focus needs to be on outcomes and the delivery of better health for Australians. Surely that is core business for any Australian government. But, sadly, it seems not for the Liberal Party, and it is certainly not part of the conversation that we are hearing about public health care. Rather than hearing bold and visionary statements about the health of Australians, we have heard about more miserly cutting, more shutting down and more arrogant dismissal of requests for a revelation of the cuts that seem to be on the horizon.

I want to make the point at this late hour that the Liberals cannot be trusted with our healthcare system. Many local residents in my community are extremely concerned about the impending cuts the Abbott government has planned for local public healthcare services. In particular, they are worried about how it will affect the things that were instituted under the last Labor government. They are worried about our GP superclinic at West Gosford. They are worried about our Central Coast Medicare Local. These things delivered under Labor have transformed people's experience of and access to public health. The GP superclinics and Medicare Locals are two signature health policies that were implemented in the 43rd Parliament. They built on and expanded Labor's universal healthcare system by providing specialist services that are closer to home and which do critical things. They deliver primary and preventative health care. The Gosford GP superclinic provides extended hours services and is also able to offer bulk-billing. So instead of people waiting until they get to an acute stage where they have to be admitted to hospital they can get health care at an earlier stage of their illness when the early onset of symptoms emerge.

Medicare Locals are able to audit the local community and look at acute health problems that exist, both systemic and practical, and deal with these local issues in powerful ways that respond to local problems with local solutions. It is a way of using the expertise of local leaders in the medical sector to create responses to problems that have just been left unattended for too long. To make these things happen requires not only a certain degree of goodwill, good intent, capacity and vision but also money. Labor delivered over $528 million towards the GP Super Clinic Program. Sixty-four superclinics were established nationwide. These were targeted at areas most in need of additional specialist and extended hours services. The Central Coast superclinic was certainly one of those.

With the Labor Party committing over $7 million towards the Gosford GP superclinic we had a truly amazing outcome. I would like to put on the record the way in which our GP superclinic, run by Dr Rod Beckwith, and an amazing team of specialists and allied health professionals in the areas of chiropractic, pathology and radiology, as well as exercise physiologists, are providing a one-stop health shop for people.

We have discussed our own families on a number of occasions, Madam Acting Deputy President Boyce, when we were jointly looking after the Parliamentary Joint Committee on Corporations and Financial Services. However, I want to put on the record that my son, Noah, who is 17 and doing the HSC this year in New South Wales, has been very healthy for most
of his life, thank goodness. We have had great service at the surgery in Terrigal. Dr Little and Dr Evershed, who is now retired, have been our primary doctors; they are great practitioners.

Recently, on a day when we were unable to get an appointment at the Terrigal surgery, we took the opportunity to take Noah to the GP superclinic. It was a novel experience for him to actually go into a surgery where he was able to show up without making an appointment and to be slotted in for an appointment with a doctor. There were multiple doctors on duty that day. He was able to meet a recently graduated young Australian doctor, trained under the funds delivered by the Gillard government. He received excellent service. He had his concerns addressed and he was able to walk out without having to make a significant payment. His whole expression of this experience was quite powerful. What did he learn from it? I actually asked him—and you would understand, Madam Acting Deputy President, why I as a former teacher might ask questions like that which, to some degree, probably annoy my children—‘What did you learn from this experience, Noah?’ His response was, ‘I didn't realise that, if I was sick, I could just go to the doctor's if I didn't have money.’ It made me realise that he had become so accustomed to fee-with-service through the great doctors we have at Terrigal that he did not think that he could go to a doctor if he were sick and did not have any money. But he can now—and he knows that he can do that at the GP superclinic at Gosford.

For a commuting community like that of the Central Coast, such a clinic is extremely important. It provides access to a GP at hours commuters are able to take advantage of, enabling them to engage in consultations that prevent ill health. Over 80 per cent of people visit their GP at least once a year. That highlights for us all the importance of ensuring easy access to GPs.

Lack of access to adequate care, especially after-hours care, is one of the contributing factors to avoidable visits to emergency departments. This is one of the problems we faced on the Central Coast. There have been so many cuts to hospital funding by the state Liberal government—$3 billion was cut from the New South Wales health budget alone—that there is more pressure on our hospitals than ever before. People are using the Gosford GP superclinic as their first option rather than going to the emergency ward. This is a fantastic outcome not only for the people who are getting primary care for low-level needs but for local people with genuinely acute problems—by creating space for them to get the service they need at Gosford Hospital.

This superclinic forms a central part of building a very strong primary healthcare system on the Central Coast with a strong emphasis on chronic diseases and preventative health. In the first weekend the GP superclinic was open, there were 20 patients who went to that service instead of going to Gosford Hospital's emergency department. I took the opportunity to do a little research on a recent visit to the emergency department myself. The anecdotal testimony of staff there confirmed that incredible pressure was being taken off Gosford Hospital by the provision of the GP superclinic—a superclinic provided, with vision, by the Labor government.

GP superclinics benefit communities. They ensure the right health care is available to help people get healthy and stay healthy. They take pressure off emergency departments. They provide opportunities for high-quality training. This is an important consideration. In the last parliament, one of the research projects undertaken by the health committee was to understand the burden of training that has arisen as a consequence of the Labor government's
investment in getting people into universities. We need places for our young GPs to learn. This Gosford GP superclinic has provided a powerful learning opportunity for young people emerging from their first phase of study as doctors.

Medicare Locals are a key component of the previous Labor government's expansion of the scope and delivery of accessible public health care. There are 61 Medicare Locals across this country. They service every region and they are there to reduce secondary healthcare costs and prevent hospital admissions. We are finding that they are working very powerfully to identify specific localised community needs and to develop localised and tailored programs to meet those needs.

One of the programs that are operating through the Medicare Locals—certainly on the Central Coast—is Labor's Partners in Recovery program, which received $6.5 million in funding. This support is desperately needed by families and carers who are looking after somebody with a chronic, long-term mental illness—people who need wraparound care. We are not just talking here about front-line services. Front-line services delivering medical care to people with mental health problems are a wonderful part of a whole treatment regime. But wraparound care includes things like access to housing and support with social services—these things need to be provided. They can only be provided when there is a considered, localised, full response.

There are threats to Partners in Recovery and there are threats here in Australia in the 21st century to what we consider to be a right—access to ordinary health care. These threats are very real. Public funding for health is robust and sustainable, underpinned by a Medicare levy paid by eligible taxpayers. The Australian people will ultimately reject any cynical attempt to wind back our public healthcare system.

**Access to Justice**

**Senator MADIGAN** (Victoria) (22:34): I rise tonight to speak about what a barrister has described to me as the all but complete denial of access to the courts for ordinary people due to the severe and extreme cost of litigation. This barrister, an experienced and objective advocate in criminal and commercial matters, despairs at the legal injustices that go unaddressed. He despairs at the ongoing harm caused by a legal culture that has priced access to the courts completely out of the reach of ordinary Australians. The gravy train legal culture that prevails is most dangerous when it impacts the weakest and most vulnerable in our society. Our legal practitioners, this barrister said, have increasingly lost their identity as officers of the court, with all of the obligations that entails. They are, he said, preoccupied with commercial advancement.

Representing people before a court is so time consuming and demanding that ordinary people can no longer afford it. Those who need the protection of the law the most—the poor and alienated—have no hope of getting the considered and experienced representation they desperately need. Ironically, and all too frequently, litigation causes financial ruination to the parties and creates problems which dwarf the original dispute. The long-term harm and distress persist long after the legal issue is resolved or abandoned for want of resources.

Last week saw a case in point. On Wednesday I excused myself from this place to attend the Federal Court in Melbourne in support of a constituent. Appearing before the court was a farmer from western Victoria, someone I have known for many years. His farm was
bankrupted by his own law firm. This firm had represented this individual in a family farm partnership dispute that began in 2005. Anyone who has worked on the land would not be unfamiliar with the concept of a family farm partnership dispute. Farm partnerships and farm succession planning are an inevitable part of almost any rural operation. But in this case the farmer in question—I will call him Murray—has had his life destroyed by the legal firm he appointed to protect his interests.

According to his affidavit, Murray obtained a projected legal cost in 2005 from law firm Russell Kennedy of approximately $30,000. He was further advised in 2007—when the costs were already $83,990, according to the affidavit—that the proceedings might cost a further $100,000, including disbursements. At the time, according to documents presented in the court, part of Murray's costs would be recovered—Russell Kennedy told him. But, by the conclusion of the matter, Murray's fees from Russell Kennedy were in excess of $380,000. I repeat: an initial estimation of costs to Murray by Russell Kennedy of $30,000 had grown to $380,000.

But that is not all. A key part of Murray's action in this partnership dispute was a diary. In this diary was a record of an agreement between Murray and his father. And this diary was lost by Russell Kennedy some time in 2008, according to documentation attached to Murray's affidavit. In an earlier court action, it was ruled the discovery of the original diary should be made. This is stated in a letter dated 1 September 2008, and written by Russell Kennedy principal Michael Main. In that same letter, Mr Main said: 'We will continue our search for the diary, and would be grateful if you could also check to ensure that it is still not in your possession or has been returned to you by mistake.' That is right: Murray's own law firm, it appears, lost a crucial piece of evidence.

On the website of Russell Kennedy it says the firm is committed to making a difference to their clients. Certainly, Murray's involvement with Russell Kennedy has made a difference in his life. Because of their incompetence, because of their extraordinary poker-machine-style fee-accrual system and because of their sheer legal bloody-mindedness, Russell Kennedy decided to bankrupt a sole individual farmer.

Murray's prospects of financial recovery, of rebuilding his life, have been severely threatened by this action. And how much money did Russell Kennedy get back against their $380,000 bill? Not a cent. Murray was already virtually destitute. It was an action based on the strict confines of the law, as futile it was vicious. And, while Russell Kennedy's action may have been legal, was it appropriate? Was it fair? Was it ethical?

Needless to say, it was the same Mr Main who appeared at court last week in his firm's proceedings against my constituent. The Federal Court is, of course, only one platform in our legal industry. There is the High Court, the Supreme Court, the County Court and the Magistrate's Court. It is a labyrinth, with top lawyers commanding fees of $10,000 a day or higher for their services. According to research by Ibis, legal services in Australia are a $21 billion industry, employing nearly 100,000 people. It is a gravy train with many, many carriages.

But for the moment I would like to drill down into one aspect of this labyrinth, the Family Court. In many ways, this is both the most important and the most divisive part of our legal system. I say that because it goes to the heart of Australian society—our families and our
children. The current state of the Family Court points to a tragic legacy left behind by the previous government.

The Family Law Legislation Amendment (Family Violence and Other Measures) Act 2011 was passed by the Senate and came into effect in 2012. This legislation changed the Howard government's shared parenting reforms via a spurious claim to provide greater protection for children from family violence. The objective was to improve the Family Court's decision making by giving priority to a child's safety when determining what is in their best interests. The aim was also to make it easier for allegations of family violence and sexual abuse to be brought before the court. And was this successful?

Last year a retiring Family Court judge gave his view, which was reported in the Fairfax press. Justice David Collier had 14 years on the bench. And, keep in mind, it is rare for Family Court judges to speak publicly about their views. Many of us would recall the 1980 murder of Justice David Opas and the 1984 bombings of the Parramatta Family Court building and the homes of two judges. The Family Court is the flashpoint for the breakdown in family life. It is a place of heat and anger and stress. It is a place where lives collapse and are changed forever.

Justice Collier gives us clear insight into what is currently forging this tragic metallurgy of Australian families in crisis. He said unprecedented hostility was infiltrating the Family Court, with a willingness by parents to use their children to damage one another. 'Allegations of child sexual abuse are being increasingly invented by mothers to stop fathers from seeing their children', Justice Collier said. I quote from Justice Collier: 'When you have heard the evidence, you realise that this is a person who's so determined to win that he or she will say anything. I'm satisfied that a number of people who have appeared before me have known that it is one of the ways of completely shutting husbands out of the child's life. Justice Collier called this 'a horrible weapon'.

The continued use of false claims is undoubtedly fuelling the crisis of our Family Court system. Member for Dawson George Christensen has been a strong campaigner against our unfair family law and child support systems.

He referred to the Gillard government amendment as a Trojan horse, loaded with consequences that would undermine some of the most basic human rights of children and parents, particularly fathers. This reform to the act provided for two primary concerns for the Family Court to consider when making parenting orders. The first concern was the benefit to the child of having a meaningful relationship with both of their parents. The second concern was the need to protect children from harm and abuse. On the surface, both of these seem valid. However, the Gillard government's amended act clarified the second primary consideration of violence over the shared parenting provisions. Where there is a conflict between these two primary considerations, the act now requires the courts to give more priority to the protection of children from harm and abuse. Is that a good idea? Of course it is in principle. But this amendment has allowed the introduction of many false allegations in the court. According to many Family Court practitioners—the judges, the clerks, the barristers and others—the system is on the brink of collapse.

The Chief Justice of the Family Court of Australia told ABC radio earlier this month that cuts to legal aid have led to more and more people representing themselves. Chief Justice Diana Bryant said that the Family Court system was unquestionably compromised. She said...
that the Family Court produces decisions that do not stick and then you have people who are unhappy with decisions or who take matters into their own hands. Chief Justice Bryant said:

… there are mental health issues and the court needs to know about those issues and to know the extent of them, and you don't have parties with the capacity to bring the right evidence, then you are certainly putting children at risk.

Aiding this breakdown of the Family Court system was the repeal of the sections—including 60CC(3)(c)—that were known as the friendly parent provisions. This meant the court is no longer required to consider the willingness and ability of a parent to facilitate a relationship with the other parent in determining the best interests of the child. Reforms by the Howard government were designed to get away from the adversarial system and allow a court to consider giving custody to the parent who was most likely to include the other parent in the child's right to have a meaningful relationship with both parents.

Additional consideration under the aforementioned section also requires the court to consider the extent to which each parent has fulfilled or failed to fulfil his or her obligations to maintain the child. This includes the extent to which the father or mother has taken the opportunity to participate in decision making in relation to the child, as well as spending time with and communicating with the child. As divorce is no fault, the reasons for failing in this area are seldom considered, so parental alienation becomes a successful tactic. One parent presents an accusation against the other parent for failing to be involved. Excluding the other parent becomes the grounds to further eject the alienated parent.

Additionally, hearsay evidence of children is now allowed in Family Court proceedings. The provisions of the Evidence Act 1995 do not apply to child-related proceedings. The Gillard government repealed the section which allowed the courts to order costs against a party who has been found to have knowingly made false allegations or statements before the court. This means any accusations can be made in a Family Court hearing with impunity. Frequently, we hear unsupported accusations of abhorrent behaviour by one parent. As I said earlier, Justice Collier called this 'a horrible weapon'. Lastly, we operate under a new definition of family violence. This means family violence now means just about anything. So it is open slasher; there are claims, counter-claims and a veritable river of unsubstantiated accusations in Family Court proceedings.

A survey of 68 New South Wales magistrates concerning apprehended violence orders—AVOs—found that 90 per cent agreed that some AVOs were sought as a tactic to aid a person's case in order to deprive a former partner of contact with their children. About a third of those who thought AVOs were used tactically indicated that it did not occur often, but one in six believed it occurred all the time. A similar survey of 38 Queensland magistrates found that 74 per cent agreed with the proposition that protection orders are used in Family Court proceedings as a tactic to aid a parent's case and to deprive their partner of contact with their children.

It is time to ask ourselves if we are falling short of the ideal professed under the international Convention on the Rights of the Child. Included in this are the child's right not to be separated from his or her parents against the child's will, the child's right to maintain contact with both parents if they separate, the child's right to be heard in any judicial and administrative proceedings, and the child's right to freedom of expression. Lastly, the
convention provides that parents or legal guardians have the primary responsibility for the child's upbringing.

As the member for Dawson said earlier this month, family law and child support are messy areas and there are no winners. But under the current system some of the losers are being turned into massive losers. That is even to the extent of losing their children and their lives. The current system is blatantly unfair and negligent. It is biased against fathers. It is unfair to children, who are the most vulnerable members of our communities. It must be fixed, as a matter of urgency.

**Senate adjourned at 22:51**

**DOCUMENTS**

Tabling

The following documents were tabled by the Clerk:

*Australian Bureau of Statistics Act 1975—*

- Measuring Educational Outcomes Over the Life-Course—Proposal No. 8 of 2014.
- Survey of International Trade in Services—Proposal No. 5 of 2014.

*Census and Statistics Act 1905—*

- Release of Lists of Agricultural Farm Businesses for the Australian Bureau of Agricultural and Resources Economics and Sciences—Statement No. 2 of 2014.
- Release of Lists of Businesses for Safe Work Australia—Statement No. 3 of 2014.

**Tabling**

The following documents were tabled:


*Sugar Research and Development Corporation (SRDC)—Report for the period 1 July to 30 September 2013 [Final report].*

**Tabling**

The Parliamentary Secretary to the Minister for Social Services (Senator Fierravanti-Wells) tabled the following document:

*Administration—Department of Employment—Jobs data—Letter to the President of the Senate from the Minister for Employment (Senator Abetz) responding to the order of the Senate agreed to earlier today, dated 25 March 2014.*