INTERNET
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the Senate and committee hearings are available at

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SITTING DAYS—2014

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<td>December</td>
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RADIO BROADCASTS
Broadcasts of proceedings of the Parliament can be heard on ABC NewsRadio in the capital cities on:

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For information regarding frequencies in other locations please visit
http://www.abc.net.au/newsradio/listen/frequencies.htm
FORTY-FOURTH PARLIAMENT
FIRST SESSION—THIRD PERIOD

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

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>
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<th>Party</th>
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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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(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
## ABBOTT MINISTRY

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<th>Title</th>
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<tr>
<td><strong>Prime Minister</strong></td>
<td>The Hon Tony Abbott MP</td>
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<tr>
<td><strong>Minister for Indigenous Affairs</strong></td>
<td>Senator the Hon Nigel Scullion</td>
</tr>
<tr>
<td><em>Minister Assisting the Prime Minister for the Public Service</em></td>
<td>Senator the Hon Eric Abetz</td>
</tr>
<tr>
<td><strong>Minister Assisting the Prime Minister for Women</strong></td>
<td>Senator the Hon Michaelia Cash</td>
</tr>
<tr>
<td><strong>Parliamentary Secretary to the Prime Minister</strong></td>
<td>The Hon Josh Frydenberg MP</td>
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<tr>
<td><strong>Parliamentary Secretary to the Prime Minister</strong></td>
<td>The Hon Alan Tudge MP</td>
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<tr>
<td><strong>Minister for Infrastructure and Regional Development</strong></td>
<td>The Hon Warren Truss MP</td>
</tr>
<tr>
<td>(Deputy Prime Minister)</td>
<td>The Hon Jamie Briggs MP</td>
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<tr>
<td><strong>Minister for Foreign Affairs</strong></td>
<td>The Hon Julie Bishop MP</td>
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<tr>
<td><strong>Minister for Trade and Investment</strong></td>
<td>The Hon Andrew Robb AO MP</td>
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<tr>
<td><strong>Parliamentary Secretary to the Minister for Foreign Affairs</strong></td>
<td>Senator the Hon Brett Mason</td>
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<tr>
<td><strong>Minister for Employment</strong></td>
<td>Senator the Hon Eric Abetz</td>
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<tr>
<td>(Leader of the Government in the Senate)</td>
<td>The Hon Luke Hartsuyker MP</td>
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<td><strong>Attorney-General</strong></td>
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<tr>
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<tr>
<td>(Vice-President of the Executive Council)</td>
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<td><strong>Minister for Small Business</strong></td>
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<td>Senator the Hon Mathias Cormann</td>
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<tr>
<td><strong>Parliamentary Secretary to the Treasurer</strong></td>
<td>The Hon Steven Ciobo MP</td>
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<td>(Leader of the House)</td>
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<tr>
<td><strong>Minister for Industry</strong></td>
<td>The Hon Ian Macfarlane MP</td>
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<tr>
<td><strong>Assistant Minister for Social Services</strong></td>
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<tr>
<td>(Manager of Government Business in the Senate)</td>
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<td>Senator the Hon Marise Payne</td>
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<td>Senator the Hon Concetta Fierravanti-Wells</td>
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<tr>
<td><strong>Minister for Communications</strong></td>
<td>The Hon Malcolm Turnbull MP</td>
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<tr>
<td><strong>Parliamentary Secretary to the Minister for Communications</strong></td>
<td>The Hon Paul Fletcher MP</td>
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<tr>
<td><strong>Minister for Health</strong></td>
<td>The Hon Peter Dutton MP</td>
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<tr>
<td><strong>Minister for Sport</strong></td>
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<tr>
<td><strong>Minister for Veterans’ Affairs</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 10:00, read prayers and made an acknowledgement of country.

COMMITTEES

Joint Select Committee on Constitutional Recognition of Aboriginal and Torres Strait Islander Peoples

Meeting
Senator KROGER (Victoria—Chief Government Whip) (10:01): by leave—I move:
That the Joint Select Committee on Constitutional Recognition of Aboriginal and Torres Strait Islander Peoples be authorised to hold a private meeting otherwise than in accordance with standing order 33(1) during the sitting of the Senate today, from 10.30 am.
Question agreed to.

Rural and Regional Affairs and Transport References Committee

Meeting
Senator McEWEN (South Australia—Opposition Whip in the Senate) (10:02): by leave—At the request Senator Sterle, I move:
That the Rural and Regional Affairs and Transport References Committee be authorised to hold a public meeting during the sitting of the Senate today, from 3.15 pm, to take evidence for the committee’s inquiry into grass-fed cattle levies.
Question agreed to.

BILLS

Export Legislation Amendment Bill 2014
Export Inspection (Quantity Charge) Amendment Bill 2014
Export Inspection (Service Charge) Amendment Bill 2014
Export Inspection (Establishment Registration Charges) Amendment Bill 2014

Second Reading
Debate resumed on the motion:
That these bills be now read a second time.

Senator FARRELL (South Australia) (10:03): I rise to address the Export Legislation Amendment Bill 2014 and cognate bills and indicate that the opposition will be supporting the legislation. The Export Control Act 1982 provides the basis for ensuring that exports meet the requirements of the importing country. Labor welcomes this legislation, which will provide a fairer and more consistent approach to cost recovery for services provided by the Department of Agriculture to exporters. The legislation seeks to remedy technical defects and inconsistencies, which will in turn allow the Department of Agriculture to recover an estimated $1.9 million each year for the provision of export services for commodities which are currently excluded from the cost recovery mechanisms. Those items are cut flowers, dried...
fruit, fodder, nursery stock, nuts, seeds, timber products, tissue culture and ratite meat. I am not sure exactly what ratite meat is. I do not know if you know the answer to that, Deputy President Parry, coming from Tasmania. There are a few rabbits down there. But all of those things are currently excluded. Principally they were excluded because, at the time that the legislation was originally introduced, they were not items that we were exporting.

So the effect of this legislation is that it tidies up and standardises the definition of prescribed goods across seven statutes. These changes are important because in Australia we export around 65 per cent of our farm products, about 75 per cent of our fish products and some 60 per cent of our forest products. So obviously our international markets are absolutely critical to the health, wellbeing and profitability of our agricultural sector. As we strive to fully capitalise on the Asia led dining boom, a full and efficient cost recovery of export services will be of increasing importance, given how important our brand and image is in those international markets.

I think it is important to note that these are reforms that were commenced under the former government. We were very lucky in the Rudd-Gillard period to have three terrific agriculture ministers—Tony Burke, Minister Ludwig and of course, most recently, Minister Fitzgibbon—who all did a terrific job in this area. These changes are a result of the good work that those people did in the agriculture portfolio. I support this legislation.

Senator BACK (Western Australia—Second Deputy Government Whip in the Senate) (10:06): I rise to speak to the Export Legislation Amendment Bill 2014. Whilst I concur with Senator Farrell on the areas that need to be addressed, I wish to raise a number of points and flag concerns that the industry has raised with me and raises with me on a frequent basis. This becomes a question of the competitiveness of our export charges vis-a-vis those countries with whom we compete around the world, and it is a highly competitive market.

People should be aware, of course, that Australia agriculturally survives on its exports. We were very lucky in the Rudd-Gillard period to have three terrific agriculture ministers—Tony Burke, Minister Ludwig and of course, most recently, Minister Fitzgibbon—who all did a terrific job in this area. These changes are a result of the good work that those people did in the agriculture portfolio. I support this legislation.

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In my home state of Western Australia, as with South Australia, about 95 per cent of our grain is exported. So it is critically important that people understand the implications of the legislation and the amendments being undertaken. I voice these concerns because we are at risk of becoming totally uncompetitive and pricing ourselves out of these markets.

Let me give you a quick example. When I was in the United States in December last year I met for a couple of days United States Department of Agriculture personnel. They told me that all costs associated with inspections for export, or at least the vast majority, are in fact met by the American taxpayer. You might say: why is that relevant to us here in Australia? The answer is that we are in intense competition with the United States in markets such as South Korea and Japan, and I hope we will soon be more active in the Chinese market.
The situation as described to me by the Americans, the USDA, is one where the only thing of interest to the American Department of Agriculture is the requirements of the importing country. They confine themselves only to those areas required by the importing country. We in Australia have now gone well beyond that. We are at the stage where we are almost giving advice to importing countries: 'Are you sure you don't want such and such an inspection service undertaken?'

We have to take a very correct and quick look at this to see where we are and what our role is. As the Americans said to me and I absolutely endorse, our high standards of inspection services are critical. We know that the US market is very important to us in terms of exports of beef and, depending on whether you look at value or volume, we are the second or third largest exporter of beef in the world behind Brazil and competing with India and their very much lower value buffalo meat. I for one will always defend, stand up for and argue for the highest standards.

What I am here today to talk about are the cost-recovery circumstances we are facing. I was recently advised that research undertaken by the red meat sector to 2012 estimated that government influenced costs and charges in Australia account for almost 30 per cent of all costs incurred after the purchase of livestock and that did not take into account those incredibly increasing costs for the Exporter Supply Chain Assurance System. It is unsustainable that 30 per cent of all costs would be related to government. Furthermore, to give emphasis to this point, from 2005-06 to 2013-14, costs for example of export certification have increased by 122 per cent from $5 million to $10 million at a time when the number of livestock being exported has declined by one-third. How can we possibly sustain these improvements, these changes? The Public Service Commission, in a capability review released only two months ago, in March this year, stated:

It is notable that 60% of the department’s budget comes from cost-recovery operations. As part of these operations, DAFF manages many fees and charges and consults with well over 100 industry bodies … This creates a level of inefficiency that would not be accepted in private industry and represents a major threat to the department’s future capability.

It went on to say that ultimately it will benefit both portfolio industries and the department if we achieve significant improvements. We have seen, for example, a 113 per cent increase in some charges in one year, in 2010-11. We have a circumstance in which industry currently pays all costs in live animal exports, including those not associated with export certification. As well as performing export certification services, the live animal exports group undertakes a range of activities such as answering parliamentary questions, briefing ministers, responding to correspondence, preparing financial reports, responding to FOI requests, public queries and supporting market access negotiations. Yet industry is paying for all of these costs under the industry recovery scheme. It simply cannot afford to do so.

I am flagging this today, as I have with the minister, as I have with the secretary of the Department of Agriculture and as I will go on doing. Let me give you an illustration. Remember, we are one of 109 countries involved in exports. We have by far and away the highest costs associated with the exercise. Our hourly rate is absolutely unacceptable and I come back to producers because at the end of the day all costs end up at the farm gate. We have circumstances now where the return to a producer in the USA is double that of the return to a producer in Australia. We know from the current grass-fed beef inquiry that the return to
the producer today per kilogram is no different from what it was 20 years ago. Yet the
domestic consumption of beef has gone down and retail prices have gone through the roof.
When you look at abattoir processing costs in our country, they are infinitely higher than the
next highest and that is the United States of America.

When one has a look at the costs imposed on industry by the Department of Agriculture—
I am now referring to the draft Cost Recovery Impact Statement for 2014—one sees that these
are costs associated with document processing and administration. These are the anomalies
that our industry representatives are coming to me on a continuing basis to ask how can they
be reconciled. Those are costs of document processing for a companion animal, $381 per
hour; for a horse, $508 an hour; for reproductive material, be they embryos, semen or
whatever, $405 an hour. But for livestock export that figure jumps to $671.80 per hour. These
costs are absolutely unsustainable. As I said to the secretary during Senate estimates, we
know that veterinarians and others in the Department of Agriculture are not being paid
$625,781.70 per annum. If they were, I might consider applying for a job as a veterinarian in
the Department of Agriculture.

How is it that these costs are so high? We have a circumstance where small exporters are
being priced out of the market. In one circumstance put to me the gross return for a small
export was going to be $1,000 and the cost of processing the documentation to actually give
effect to that export was $1,000, 100 per cent of the actual return to the producer. So you say
to yourself, 'What happens in other countries?' Senator Colbeck, Senator Sterle and then
Senator Kerry O'Brien and I were in New Zealand two years ago, through you, Deputy
President, to Senator Colbeck. In that country they have outsourced much of the export
inspection services for a range of animal species and indeed for costs associated with
laboratory testing et cetera. We in Australia have not done that. Here in Australia the
Department of Agriculture sets the rules, licenses the exporters, attends to the inspection and
then acts as the appeals board should there be any complaints or disagreements with those
fees and charges. That is exactly where we are at the moment. You bet that industry is
complaining bitterly when it is looking at proposals of $671 an hour, when it is looking at an
increase from 65c per kilometre—which is reasonable, in industry—to $1 per kilometre
with no explanation being given, and the other attendant charges of this cost-recovery about
which I spoke in the last few minutes.

I have presented to relevant parties a circumstance which is occurring at the moment in
terms of live export charges. These are those associated with documentation et cetera. We have
the anomalous situation in which the hourly rate for these inspection services changed
dramatically and I want to explain how they do. There are three classes of cattle getting
exported: those for breeding purposes, those which are known as feeder cattle and they will
go into feedlots, and others that will go directly for meat processing. The price per animal for
feedlot cattle is called tier 2 and this is $3.90 per beast. You say to yourself, 'Well, $3.90 per
beast, if that is what the fee is, it is going to go back to the producer eventually but we can
wear that.' But as I presented tax invoices the other day the circumstance exists at the moment
where that $3.90 per beast is for the first 22 hours of an inspection service. In industry we
would think, if you have a look at any aspect of industry, be it professional services, be it
trades or whatever, the larger the number of animals or the larger the number of units, the
larger the number of electric light bulbs that an electrician might be replacing, the actual unit
cost would go down. But that is not the case under this new cost-recovery scheme. After 22 hours, and that is a very small number of hours for the complexity of the work being undertaken, and I am going to come to ESCAS in a moment, after 22 hours that figure changes dramatically in what is referred to in the tax invoices as a penalty fee. That penalty fee for the invoice I have in front of me jumped from $3.90 per beast to $70.50—yes, $70.50—per animal.

Any of us who have been involved in business, anybody who has been involved in the provision of services, whether professional services, trades or labour related services, would know that you factor in your costs before you present them to a potential client. So, if $3.90 per animal is the fee, you have factored in the associated costs—your head office costs, your costs per diem if the person has to travel. You take all those into account and the figure is, in this case, $3.90 per animal. There can be no circumstance in which that fee jumps up to $70.50 per beast to be processed.

I do not care how people try to defend that to me. I cannot understand it if they come to me and say, 'We think this is associated with factoring in all of the costs.' My answer to them is that the $3.90 should factor in all the costs. Furthermore, I say again: when there are more animals, more electric light bulbs or more hours of consultation that a legal firm may give a client, one would expect the unit cost to come down, not to go from $4 per animal to $70 per animal. This is totally and utterly unacceptable and without exception.

As industry says to me, there is no cost pressure. There is no cost competitiveness. I understand that the officials of the Department of Agriculture are very diligent, but if you know very well that for the first 22 hours you are going to get $3.90 per beast and after that you are going to get a very much higher figure—and in the case I quoted it is $70.50—where is the incentive to get the work done more efficiently, in a shorter amount of time? More particularly, if it is the statement of our government—and it is—that we are trying to reduce red tape, that we are open for business, then it is incumbent on us to be driving these prices down, to be improving efficiency.

I come to the question of risk—and this is the mechanism, in my view, by which this can be done. Obviously, if we are to retain the status that we enjoy internationally in terms of the quality of the product that we export, the standards of inspection that we enjoy, the return to producers and others in the chain, then of course it is absolutely critical that we are able to go to the international markets and assure them of our ongoing and continued commitment in this area.

But I ask this question. If, for example, live animals are exported from the same farms, using the same transporters, using the same feedlots, using the same ships, into the same importers’ facilities, into the same abattoirs for 40 years, with obviously high trust by the purchaser in the quality of our product and the price at which we are able to put it into the market, where is the justification, from a risk analysis point of view, for spending exactly the same amount of time reviewing that export and a new request for export to that market when we know that there is no change in all of that supply chain?

The point I want to make is that in a risk analysis process what we must do, of course, is to have a look at the risk. If it is a new exporter, if it is a new importer, if it is a new participant in the supply chain, if it is a new market or if it is a new product, then we should devote all of that time and attention to satisfying ourselves here in Australia and to satisfying the end
customer that we can in fact preserve the integrity of our product. That is where the money should be spent.

At the moment, where is the incentive, I ask, for an excellent exporter, controlling the supply chain in an efficient way, to continue their level of excellence? Where is the reward from the regulator which says to that exporter: 'You are performing at or above industry, international and national expectations, so we will lower the level of audit upon you. We will charge you a lower figure. We will continue to keep an eye on you, of course, and should there be any problems we'll come down on you like a tonne of hot bricks'? But where is the incentive for that exporter to maintain their excellence when in fact they are going to be the subject of the same levels of this $671 an hour, for example, or the ridiculous figure of 22 hours at $3.90, jumping up to $70.50? There is no logic in this particular exercise.

I say again that we are operating in a highly competitive market. Following my visits to the USDA in Washington, I met with participants of the cattle industry, the export industry, the Texas Department of Agriculture in Austin Texas, the Texas A&M University and producers and exporters. Their continuing question was: 'Senator Back, why are importing countries who you have long supplied with product here in the United States of America trying to source supply from us when we know very well that the quality of your product has stood up over 40 years? We know you lead the world in transportation. We know you lead the world in animal welfare standards. Why are they?' I could name them for you. They asked me, 'Why are they here in the United States trying to source product?' The answer, regrettably, is that we are at risk of not continuing that high level of reliability for which we have earned an enviable reputation in live animal exports, beef, sheep meat and associated products.

I support this legislation, but I put out a call very strongly on behalf of industry that what we are moving towards is unsustainable. We cannot sustain it, the producers of Australia cannot handle the added costs upon them, and I urge government and the department to address this. (Time expired)

Senator XENOPHON (South Australia) (10:27): I just reflect on Senator Back's very powerful contribution. We cannot ignore what Senator Back has outlined. They are very real concerns in terms of Australia's slipping productivity and competitiveness. These are real issues that we must address, otherwise we will lose significant export markets. We will not be able to compete on the world stage. We will not be able to compete in global markets. The consequences of that for our agricultural sector will be disastrous. It will have a cataclysmic effect on our agricultural sector and, indeed, our economy unless we address these issues. Senator Back's contribution makes specific reference to some of the extraordinary charges. We know that Senator Back is a former vet—once a vet always a vet. Fees of $625 an hour being charged is extraordinary. Fees have been ramped up without, apparently, any level of transparency, accountability, rhyme nor reason. It must be addressed by this place; it must be addressed by the department. I would urge the minister, the Hon. Barnaby Joyce, to read every word of what Senator Back has said in terms of our lack of competitiveness and our slipping productivity.

In relation to this bill, I have real concerns about cost recovery when it comes to export markets. I acknowledge that the Department of Agriculture is operating on less than half the budget it had only seven years ago, which is a ludicrous position. Agriculture, food production and exports are vital to the Australian economy. The department should have
enough funding to provide support to the industry. It should not have to bill the very people it is supposed to be backing, because the enormous economic benefits of having a strong export market for what is our ultimate sustainable, renewable resource—agricultural products—is something that we must be able to support rather than put roadblocks in the way. Exports and agricultural exports in particular provide a net benefit to the Australian economy. These activities should be supported by the government as a whole rather than penalised by extra fees. That is what my real concern is about.

There appears to be no bipartisan consensus with respect to these fees over the years. I think we have gone in the wrong direction. We should be acknowledging that, if you build export markets, it means that those businesses will be more profitable and they will be paying more tax, and they will be employing more people, who in turn will be paying tax. That is the approach we need to have philosophically. To make matters worse, the application of cost recovery has been, I believe, a disaster—although, to be fair, I believe that Minister Joyce and the current government understand some of these issues and seem to be willing to address them. Cost recovery is spread unevenly and I think that it needs to be dealt with.

I will be supporting this bill but I do have serious and significant reservations about the whole concept of cost recovery. I note that Minister Joyce and his office have been very supportive in addressing particular concerns I have had about matters relating to this bill. In particular, I have had representations from Ross Hampton, the CEO of the Australian Forest Products Association, and from Gavin Matthew, the manager of processing, and there have been some useful and fruitful discussions with the department and with the minister's office in respect of those representations. The minister and the department have now agreed to hold off on applying tonnage charges to the forestry industry until a review of the proposed fee application has been completed. I would like to take this opportunity to table a letter from the minister outlining this agreement. It was a letter received from the minister this morning. It is undated but it is a letter that was prepared this morning. I seek leave of the Senate to table that letter.

Leave granted.

**Senator XENOPHON:** I will just read into the *Hansard* the letter from the minister, the Hon. Barnaby Joyce, MP. In this letter, which is addressed to me, the minister states:

I am writing with regard to the planned fee review for plant export industries.

The fee review will commence in July 2014 and will include consideration of the equitable distribution of a quantity (tonnage) charge for timber products.

In determining appropriate fees and charges the Department of Agriculture will develop a draft Cost Recovery Impact Statement (CRIS) after consultation with industry. This will be facilitated primarily through the Grain and Plant Products Export Industry Consultative Committee and the Horticulture Export Industry Consultative Committee. The draft CRIS will be released for public comment and further feedback will be sought prior to its finalisation and, if required, eventual submission to the Minister for Finance for approval. Ultimately I will consider a legislative package that will be subject to usual parliamentary consideration.

I am advised the process outlined above will take an estimated 9 to 12 months with implementation of the new fee regimes to commence after that process has been completed.

Thank you for your willingness to engage with me on this important issue.

Yours sincerely
Barnaby Joyce MP
I think that gives a degree of comfort and support to the industry to give them time to adjust to a tonnage charge. The process means that, in effect, there will not be a tonnage charge in place until at least 1 April next year, given that the process will take nine to 12 months. I am very grateful to the minister's office and to the department's advisers who put up with me last week in a number of meetings that we had in respect of that issue, but I think it was a good and fair result.

My concern about recovery fees is maintained. My concern is that cost recovery is spread unevenly across the sector. A proportion of experts are currently carrying the burden for everyone, which is patently unfair. I note the department is planning to review the ways fees are charged, and I hope they will be more considerate and flexible when it comes to applying these charges, and also to take heed of the issues raised by Senator Back in terms of what appear to be less than transparent charges that have been in place for a number of years.

It is also not fair for small exporters to pay the same as large exporters, or for forestry products to be charged per tonne in the same way grain is, when these products have very different tonnage values. I have spoken in this place before about Mick and Tanya Punteriero, who are niche lime growers in the Riverland—people from your neck of woods, Madam Acting Deputy President Ruston, in the wonderful Riverland of South Australia. I know that you have done a lot of work with them to assist them. Mick and Tanya export a small number of pallets of their limes to New Zealand each year. The application of cost recovery, however, meant that they were charged the same amount as a large packing house exporting thousands of tonnes. It was a fixed charge that was unreasonable—around $8½ thousand.

I understand that a number of matters have flowed on from that through your work as well, Madam Acting Deputy President, which has been of some assistance to growers such as the Ponterieros. But, while there are some rebates for smaller producers, there was no guarantee how long these would last. A fee structure that does not recognise the size of a business or what they are exporting is not just unfair but also a disincentive to export. If you want to encourage those small exporters to become medium to big exporters in the future, encourage them now; do not hit them with punitive fees that are simply too uneconomic for them to be involved in the export market. It means that smaller shipments like those into new or niche markets just are not available and, without innovation, our industries will stall.

I will be supporting this legislation with some reluctance and, while I acknowledge the work of the minister and the department in addressing some of these issues, I am still philosophically and practically opposed to the way cost recovery is applied at the moment. I hope that when the budget issues have been addressed the government will reconsider the use of cost recovery in the agricultural sector to the extent it is now being used and also to kick-start incentives for the small exporters which will become the big exporters and the bigger employers in the future.

In the meantime, I hope the fee reviews will be thorough and will take into account concerns raised by the industry and the concerns raised very ably by Senator Back. If cost recovery is going to exist, it should at least be equitable and fairly applied. I believe these measures agreed to by the minister will go some way towards achieving this and for the forestry products industry I believe that the undertakings, the letter from Minister Joyce today, will give them some comfort and ability to plan for their sector.
Senator COLBECK (Tasmania—Parliamentary Secretary to the Minister for Agriculture) (10:35): I thank senators for their contributions this morning. I particularly recognise the interest shown in this issue by Senator Back, by Senator Xenophon and by you, Acting Deputy President Ruston. The government recognises that export fees and charges are an issue of concern for the agricultural export community. I know that a number of senators have been spending a lot of time working on this issue going back to 2008-09, when changes in the cost recovery process and the 40 per cent rebate on cost recovery was removed by the previous government.

As intimated by Senator Xenophon, there are $15 million in this year's budget to assist small producers over four years in export sectors where there are specific export certification charges. The government has also announced that it is doing a full review of export fees and charges. That is a very important piece of work, to consider the way these fees are applied. Senator Back was correct when he said we are part of a competitive export supply chain and that the costs of government go to the cost of participating in the export sector. We need to ensure we are competitive as part of that process as well, no different from any other private supplier in the market. That is a principle we need to consider as part of the export fees and charges review process.

I commend the bills to the Senate.

Question agreed to.

Bills read a second time.

Third Reading

The ACTING DEPUTY PRESIDENT (Senator Ruston) (10:38): As no amendments to the bills have been circulated, I shall call the minister to move the third reading unless any senator requires that the bills be considered in Committee of the Whole.

Senator COLBECK (Tasmania—Parliamentary Secretary to the Minister for Agriculture) (10:38): I move:

That these bills be now read a third time.

Question agreed to.

Bills read a third time.

Family Assistance Legislation Amendment (Child Care Measures) Bill 2014

Second Reading

Debate resumed on the motion:

That this bill be now read a second time.

Senator KIM CARR (Victoria) (10:38): I move:

At the end of the motion, add: but the Senate notes that:

(a) the Government has failed to provide sufficient information about the impact on families of the changes to the Child Care Benefit;

(b) the Government has not completed an assessment of impacts on workforce participation of the changes to the Child Care Benefit;

(c) the changes to the Child Care Benefit should not be legislated just weeks before the Productivity Commission inquiry into Childcare and Early Childhood Learning provides its interim report; and
(d) families have not had a chance to have their say on these changes.

Before the 2013 federal election, we heard time and time again from the Leader of the Opposition, as he was then, that there would be no cuts to education by a Liberal government. We know now that such a promise, like so many others, was pure hypocrisy. After cutting funding to schools and universities and failing to guarantee the future funding for preschools, Mr Abbott has now added cuts to early childhood education to his long list of broken promises.

This bill amends the A New Tax System (Family Assistance) Act 1999, limiting the childcare rebate at $7,500 for three income years starting from 1 July 2014. It also seeks to maintain the childcare benefit income thresholds at the amounts applicable as of 30 June 2014 for three income years starting from 1 July 2014. Families around Australia must be shocked at the duplicity of this bill. Before the election, the Prime Minister personally wrote to all childcare centres about what he saw as the impact of capping the childcare rebate, saying it would mean 'increasing out-of-pocket costs for families'. Yet today he is moving to do exactly that.

Over the weekend we saw some publicity about the great disincentives that there are for women returning to the workforce and having to make that very difficult choice as to whether they keep looking after their kids full time or working for what is, on an hourly rate, a minimal amount. I saw last night on the TV the assistant minister explaining that this was all down to the Labor Party, that it was a problem created by the Labor Party. People have to make that choice often in the starkest of economic circumstances. It was partisan political pointscoring.

It strikes me as extraordinary that we are today debating these measures. The government campaigned on making child care more affordable, and yet in this very act are seeking to do exactly the opposite by stripping $1 billion from early childhood education and child care. We did not hear any of that in the news last night from the assistant minister. We were not told that $450 million would be taken away from the out-of-school program. We were not told about the $157 million being taken from family day care services. We were not told about the actions of this government to strip out support to help parents complete study to get back to work. We were not told about the reduction in funding for Indigenous child care and family centres. We certainly were not told about the $300 million in funding for educator wages.

So this is a government, frankly, that has more front than Myer when it comes to the issue of arguing its case. It is more audacious a government than you are ever likely to see when it comes to misrepresenting the facts on these issues. It is a government, as I say, with more front than Myer when it comes to telling the truth. We have a flagrant attack on the backbone of our childcare centres by this government, and yet the government in the same breath says, 'Of course, this is all down to the Labor government defeated at the last election.'

We have a situation where hundreds of millions of dollars are being cut from the childcare rebate and the childcare benefit. It is being taken out of the system by this government. Never before have we seen moves to cap the childcare rebate come before parliament without those savings being redirected back into early education and child care. That is essentially the fundamental difference here.

In the 2012-13 budget, Labor did propose to maintain the same $7,500 per child per year cap on childcare rebate, as found in this budget. However, we did so under the provision that
there was to be a reinvestment of the savings to offset the cost of other programs that directly improved childcare benefits available to families, like contributing towards Labor's $274 million national quality education and the $300 million to increase the wages of low-paid childcare workers to reduce the turnover in that sector.

As a consequence of the duplicity presented by this government, the Labor opposition will be moving an amendment that removes references to the childcare benefit in schedule 1 of the legislation, which effectively will split the bill. This will allow the Senate—I will make no bones about this—to consider the change to the childcare rebate as a separate issue. It will force the government to provide evidence to support its claims, to refute the allegations that I am putting in regard to the damaging cuts to childcare benefit, and will allow fuller and more informed debate in this chamber as to the consequences of that government policy. I put it to the Senate quite plainly: if this amendment does not find favour with the Senate, Labor will not be supporting this bill.

Labor's record is one that we are very proud of. One of the first actions of the new Labor government following its election in 2007 was to increase the childcare rebate from 30 per cent to 50 per cent of out-of-pocket expenses and to increase the cap from $4,354 to $7,500 per child. We also gave families the option of claiming their childcare rebate payments fortnightly, halving up-front childcare costs at the times that they were being billed. According to the ABS childcare consumer price index, childcare fees went up at more than twice the rate under the Howard government compared to what occurred under Labor. That is because government assistance was properly targeted. We saw 5.3 per cent per year under Howard and a 2.4 per cent increase per year under Labor. The modelling showed that the out-of-pocket costs for a family earning some $75,000 a year were reduced from 13 per cent of their disposable income in 2004 to 8.4 per cent in 2013. This is a direct result of Labor's policy initiative. Because of Labor, the number of children in child care at any one time has grown to over one million, an increase of nearly 30 per cent since 2007.

This bill will rip $230 million from the means-tested childcare benefit assistance to over 889,000 families. The education department, through the officers who were looking after this bill, has told Senate estimates that over 500,000 families will receive less support as a result of these changes—but that is essentially where the information stops. It is an extraordinary proposition that the government would propose to make cuts to a payment for which the eligibility starts to taper off when families earn just $41,000, while the Prime Minister pushes ahead with his paid paternity leave scheme that would deliver $50,000 to millionaires. He is attacking the existing childcare support that people can get when they just earn some $41,000—and of course they rely upon the benefit to a much higher degree than any proposal that I have seen in regard to the paid paternity leave scheme.

As if that were not good enough—and it is not the only broken promise from the government, which, I repeat, promised no cuts to education—it is utterly illogical. The government's own Productivity Commission inquiry into child care and early childhood learning is due to provide us with an interim report in July. Making changes to the childcare benefit at this time clearly pre-empts what the government has indicated that it regarded as an important Productivity Commission inquiry. We may well ask: why is the government proposing such significant changes to the scheme just weeks before the Productivity Commission's report is provided?
This is rushed legislation by a government that is trying to make changes before the community even has an opportunity to understand their impact—and, worryingly, before the government has understood the impact of its own policies. It shows arrogance that the government would press ahead with these changes without understanding or providing a proper assessment of the financial impact such changes will have on Australian families. This is an arrogance which was on blatant display when the government gave stakeholders just five days to comment on this bill when it was referred to a committee.

Through the Prime Minister, we have declared attacking parents and children to be some kind of budget emergency. Remember all that mantra. It simply defies logic for the government to be making changes to the childcare benefit, when their own Productivity Commission did an inquiry into child care and early childhood learning and the final report is to be provided in October this year. This attack on childcare benefits and families who are reliant on this measure is being undertaken without any proper analysis having been done to identify exactly who it is going to hurt and how much they will pay. The government is rushing these changes through the parliament in a sneaky and underhanded way—changes that will have a negative impact on 500,000 low- and middle-income families. And the minister went on TV last night and said: 'This is all down to the Labor Party.'

The government has promised the Productivity Commission review would at least maintain the same funding envelope that is currently dedicated to child care. We understand what is going on here, don't we? They are saying on the one hand, 'It is the same envelope,' and on the other hand, 'We are going to reduce the size of the envelope.' Of course, it will be easy to be consistent with the smaller amount, won't it? One can only suspect that that is the real motive behind these actions. The government is desperately seeking to find a way to justify the $1 billion of cuts to childcare support since coming to office.

Of course, there are other measures in the budget which impact on childcare support as well. The budget cut $157 million from assistance to family day care centres, which will be passed on to parents through higher fees and will lead to family day care education centres closing down. Family Day Care Australia has estimated that they will drive up fees by $35 per child per week and have a direct impact on more than 400 family day care services and 140,000 children in family day care across Australia. Family day care services are crucial to ensuring a quality and safe childcare system.

For many, this will simply mean that they cannot afford to go to work. Yesterday in the press we saw the figures and we saw the impact. We are talking about people going back to work for a few dollars an hour. In the situation where support through the childcare system is being withdrawn, it makes it extremely difficult for people to make the decision to go back to work. We have also seen cuts to the Community Support Program, which provides grants to the family day care service to support professional development and operation and administrative support for individual family day care educators. Family day care is the cheapest and the most flexible form of child care. It is absolutely vital for shift workers and is often the only form of care available in regional and remote areas.

The government is also cutting the assistance available under the Jobs, Education and Training Child Care Fee Assistance scheme—a further step which will disadvantage people on low incomes. This scheme is available to parents on income support payments to assist them to access child care for the purposes of completing study and returning to the workforce.
The government is capping the assistance at $8 per hour and will cut the maximum accessible hours from 50 to 36 hours per week. Many parents, particularly in the inner city areas, who have work and study commitments that span more than three days a week will be hit by this cap on hours and will face higher childcare fees. Because child care is paid for on a daily basis, this change will effectively limit parents to just three days care a week, even if they need care over more days to meet their work and study requirements.

There are 35,000 parents who are assisted by the Jobs, Education and Training Child Care Fee Assistance each year. The government's own budget papers show that fewer people will receive this support next year, despite what is acknowledged across the board as increasing demand. This very short-sighted and unfair policy being pursued by this government will hit hard for parents who are seeking to move out of the social security system and are trying to get better qualifications and to secure a better job.

Adding insult to injury, the government is also cutting $450 million from outside-school-hours care. This is money that has been used to fund better services; to extend hours; and to deliver better programs, such as homework clubs, music lessons, sports and drama, in 500 schools across the country. The challenges of balancing work and family do not stop when a child enters school.

After stagnating under the Howard government, outside-school-hours places increased by 100,000 under Labor, with over 335,000 children currently in care, with the Outside School Hours Care Council delivering some 55 per cent of all childcare services. There is in fact a shortage of outside-school-hours care places in many areas across the country. This savage cut will make it harder for parents, with school-age kids, to be able to return to work. This comes on top of a $5 million cut from the accessibility fund, which will be used to expand childcare centres, cut planning and development red tape, free up vacant land for childcare centres, or incorporate child care into schools and TAFEs. And so the list goes on and on and on.

And the government minister stood there last night on TV, and said, 'This is all down to the Labor Party.' What an incredible proposition! As I say, more front than Myers, more audacity than I have ever seen in a minister responsible for the welfare of young children. They are cutting wages to early childhood educators and, just before Christmas, they cancelled the Early Years Quality Fund contracts. That is despite the fact that they promised to honour the contracts before the election—another broken promise! This minister even asked educators to do the right thing and hand back their wage increases. Can you believe that?

If this government were at all serious about recognising the importance of working early-childhood educators, then it would pledge to support an equal pay case for them. It is quite clear to everybody in this chamber that has a real interest in these issues that the Abbott government has declared war on family day care services. So Labor will not be supporting these attacks. Labor will be doing all that it can to highlight the extraordinary hypocrisy and duplicity of this government. We will be explaining to communities across this country what impact these changes will have on them and we will be talking to parents who want to go back to work.

When the government say, 'We want to end the age of entitlement,' what they really mean is to justify cuts—cuts that undermine living standards, the ability of families to actually get a fair go in this country and their capacity to participate in this society. We all understand what
the relationship is between childcare affordability and a woman's right to participate in the workforce. A one per cent increase in the gross childcare prices results in a decrease in women's employment rate by 0.7 per cent.

Lower income families are the ones who bear the burden of this assault. Tony Abbott has clearly got his priorities all wrong. His priorities are to help out millionaires but attack people on low- and middle-incomes. He wants to undermine people's capacity to return to work and he is doing so in the most vicious of ways. This is a measure that the opposition will not have a bar of.

**Senator HANSON-YOUNG** (South Australia) (10:58): I rise today to speak in opposition of the Family Assistance Legislation Amendment (Child Care Measures) Bill 2014 in its totality. It is a regressive attack on Australian families. Not only is it a regressive attack; it is a sneaky attack. The government are not being up-front with Australian families about what they are doing. They are attempting to walk both sides of the fence. On one hand, they are saying that their Productivity Commission report is going to be the Holy Grail of child care. Meanwhile, in the midst of all the other nasty elements in this budget, they are about to force Australian families to pay between $3,000 and $6,000 a year by cutting the amount of support offered through the childcare benefit and the childcare rebate. It is just another step along the way of this government's attack on families, particularly those families who are struggling week in week out to meet the rising costs of living and the rising costs of child care.

The proposed changes will have a significant impact on families by making child care less affordable and therefore less accessible. We know from questioning in the Senate estimates process and the recent inquiry into the affordability of child care that over half a million families are going to cop higher fees as a result of the legislation we are debating today. Half a million families are going to cop a rise in childcare fees and be struggling to meet costs when their childcare bill comes in each week. Families with a household income of around $60,000 are going to lose $3,000 a year if this bill proceeds. Families on over $47,000—right down in the income bracket—will be hit with higher fees and less government support. For families with an income on $60,000 a year, who are going to be hit with an extra $3,000 year, that is over $50 a week. It is actually $57 a week more that families are going to have to be finding in order to cover their childcare fees. Families with household incomes of $150,000 per year will be hit with an extra bill of $6,000 a year, or $115 a week. Yet the Abbott government did not let Australian families know they were planning this before the last election. They have sneaked this through the system, hoping Australian families would not find out that they are about to be slugged with a whole lot of extra fees—on top of the already increasing fees in this sector that families are struggling to pay every week.

We know that families are already coping the highest childcare fees in history, which have gone up by about 150 per cent in the last decade. Many families are forced to pay in the vicinity of $80 to $170 a day—and that is if you can find a childcare place. If you speak to families, you work out pretty quickly that most people have to get on the waiting list long before their baby is even born—if you are able to get into a centre that is close to your home or close to your work, that is convenient enough for the care that you need on the days that you need it.

We know that there is a struggle to find a place for children in the younger bracket—the nought- to two-year olds. The baby rooms, are where parents are struggling the most. Yet the
cost of child care continues to rise day after day. In my home state of South Australia, parents are paying well over $80 a day just to put their child into a well-qualified, caring childcare centre.

We know from reports over the last few days that mothers are struggling to balance their books. Going to work and having to pay for child care, while going back into the workforce, is costing Australian mothers dearly. Mothers are only taking home a fraction of their earnings because of skyrocketing childcare fees. A mother from a low-income family who returns to work part time will lose up to 69 per cent of her income on taxes and the cost of child care. Mothers on the minimum wage are effectively working for just $3.50 an hour, once you take into consideration the cost of child care.

This government's attempt to pass this legislation, with very little explanation and honesty with the Australian people, is nothing short of shameful. They are trying to sit on both sides of the fence. I heard the minister responsible for this area last night and over the weekend talking about the need for more support for Australian families. Meanwhile, she is ushering through massive cuts to household budgets and pushing up the cost of child care to half a million families across the country.

Let's be totally upfront about this. This is a cost-savings measure by the government. It is not about improving the quality of child care, it is not about improving accessibility and, obviously, it is not about improving affordability for families. This is about saving money for the government. Why are the government desperate to save money with their harsh cuts? Because they have not been prepared to stand up to the big miners, big banks and big business to ensure that those who can afford to pay their fair share pay up. Instead we see Australian families being slugged over and over again. We have the $7 co-payment. Every time a parent needs to take their sick child to the doctor, they are going to be taxed for it. Every time they need to buy medicine for their sick child, they are going to be taxed for it.

This attack on the affordability of child care is just another item on a long list of attacks on affordability for Australian families. I will be moving a second reading motion which will go to this exact point. Rather than the government raising revenue where they could easily find it if they had the guts—by ensuring we had a proper tax on the big miners, ensuring that banks pay their fair share in terms of a levy and ensuring that we raise money from the places that can afford it—they are attacking students, low-income families and families who have children in child care. This is an attack on the sick, the young and the working family.

The Productivity Commission is due to release its draft report only in the next couple of weeks, and yet here we have the government riding roughshod over whatever the Productivity Commission comes up with, in order to scrounge back $350 million for the government coffers because they could not make the decision to tax those who could afford it the most. The government is not being upfront with Australian families about this. Where was the big announcement from Tony Abbott that he was about to cost Australian families on $60,000 a year an extra $3,000, an extra $57 a week? That is what parents who have their kids in child care are going to have to start coughing up. An extra $57 a week is a big hit on the household budget.

Where is the discussion about investing in the early childhood education of our children? Where is the big discussion and commitment to ensuring that those who care for our children and educate our children in these centres are the best qualified people they can possibly be?
They deserve to be paid properly for those skills, that commitment to the sector and their ability to care for and educate the nation's youngest citizens. Rather than supporting those who care for our children, we are seeing the government take the axe straight to family budgets, putting pressure on childcare services to increase their fees further and to reduce the number of places available, making what is already a pressure cooker in terms of accessing and affording quality child care even harder for Australian families.

I asked some questions about this during the Senate estimates process. How many families were going to be impacted? Half a million. In fact, over half a million families are going to be impacted by this. What modelling did they do on what families would do if they could not afford the massive hikes in the fees that will result if this legislation is to pass the Senate? There has been very little modelling done, not much discussion, no consultation. This is all about penny-pinching by Tony Abbott, penny-pinching off Australian families who are already struggling to get their kids into good quality child care, to get to work and get back again to pick them up on time before they get charged even more. It does not take rocket science to work out that Australian families are struggling with the rising costs of child care and to find appropriate places for their children.

The Greens will be voting against this legislation in its totality and we reject the freezing of the indexation in relation to the childcare benefit, which will affect half a million families. We also reject the freezing of the childcare rebate cap, which will affect another 105,000 families. I urge the Australian Labor Party to do the same. We heard from Senator Carr that the bill will be split by the Labor Party to allow them to vote for one of the cuts but not the other. I urge the Labor Party to reconsider that. This is a bad piece of legislation that is going to hit Australian families immediately. This is a bad piece of legislation that should not pass, because all it does is allow Tony Abbott off the hook. Raising an extra $350 million by slugging parents who have their children in child care is not fair.

We heard Mr Hockey from the other place, swanning around the country only a week ago, trying to tell Australian families that the budget was fair. What is fair about forcing mums and dads to pay more when they have to go back to work five days a week, struggling to drop their kids off at child care, maybe another one at school—doing the double drop-off—and struggling to get out of work on time in order to pick the kids up at the end of the day before they start getting charged an even higher indexation of fees? What is fair about saying to those families: 'Because we don't want to make the miners pay their fair share, because the big banks continue to get left off, you are going to have to cough up an extra $3,000 a year—$57 a week? What is fair about that? I would like Mr Hockey to explain how, if he were on $60,000 a year, he would have afforded an extra $57 a week just to ensure that his children had good quality child care.

The thing is, while we need a transformation or an overhaul of how we fund child care and early childhood education services in this country, while we need an overhaul of how we view and respect the importance of looking after our children at this most critical time, while we need an overhaul of the pitiful wages that are paid to those who care for and educate our youngest citizens, you cannot just keep cost-shifting the burden to Australian families.

Let's have a discussion about how we make the funding of early childhood education services and care more sustainable as a nation. Let's have a discussion about the fact that—and these are not my figures; these are the figures of the World Bank—for every dollar that is
spent on early childhood education and care, the return is $17. For every dollar that we spend, we get an extra $17 return if we invest in early childhood education services. But we are not having that discussion, because this government just wants to sneak through a budget savings measure that is going to hit Australian families who have their kids in child care and to take the axe to the affordability of that care and education.

I think that many people out there in the Australian community, parents who dropped their children off at child care this morning and will be racing from work to pick them up at the end of the day sometime between five and six o'clock, will be really shocked to know that this government is about to hike the affordability of child care for their family. Whether it is an extra $57 a week or an extra $115 a week, it is a massive hit on their family budgets and it is going to have a devastating impact on the number of places available in childcare services.

There are some other attacks on early childhood education as announced by this government in the budget. They are not all in direct relation to this legislation, but very concerning nonetheless. There is the lack of commitment to funding preschool and kindergarten, to the universal access to kindergarten and preschool. I am very concerned that we are about to see $400 million passed up because we do not have commitment from this federal government to keep that scheme going. They are going to push it back to states and blame the states, making it even more difficult for Australia's youngest students, our preschoolers and our kindergarten kids, to access good quality early education prior to going to school. We know how important that early intervention is when it comes to the academic development and the social development of children.

We have seen this government cut the JET program, which is about supporting young mothers who need to be able to educate themselves in order to get back into the workforce or find a pathway into employment. That JET program is about to be cut as well. So while we have the government out there saying that every young person under 30 now needs to earn or learn, what they have done for those young mothers who are under 30 and who are struggling to afford the cost of child care and being able to get themselves back to TAFE or uni or to do a diploma or certificate to get themselves back into the workforce, is to cut the amount of access they have to childcare support while they are studying. So earn or learn—except if you have children. If you have children, just suck it up! That is basically the attitude of the Abbott government. It is not fair. It is not good enough. It is an attack on not just the wellbeing and social and educational development of the nation's children, but it is also an attack on Australian families who deserve better, and who thought better of the coalition prior to this budget being handed down. The Greens will vote against this legislation. I will be moving a second reading amendment as circulated in the chamber.

The ACTING DEPUTY PRESIDENT (Senator Smith): Thank you, Senator Hanson-Young. The chair has noted that you will be moving a second reading amendment.

Senator LINES (Western Australia) (11:18): I rise today to speak in opposition to the Abbott government's harsh and cruel cuts to the early childhood sector in this country, and I do so from the really fine record of the Labor government's achievement in this area. In fact, the Labor government has been the only government in the history of child care in this country to really look at not only access and affordability but also quality education and care for Australia's young children, one of the most vulnerable age groups in our community, those
children between the ages of nought and six who attend long day care, family day care and occasional care services in our country every working day of the week.

Labor's record is a proud record. We came to government with a policy about early childhood education and care. One of the very first things the Labor government did was to increase affordability for families by taking the childcare rebate, the non-means-tested rebate, and increasing it from 30 per cent to 50 per cent. So Labor's record in terms of families using early childhood education and care is there on the record.

But we did not stop there. We went further. For the first time ever not only did we promote the workforce participation of primary carers—and in this case, usually women—we also looked at the brain development and what young children in early childhood education and care needed. The academic research is very, very clear that the optimal brain development is in the first three years. So Labor did a number of other things and, not only that, Labor did that in consultation with all of the states and territories and with the agreement of all sorts of different governments across this country, who all agreed through the COAG process that it was time to really put a focus on early childhood education and care in this country.

Not only did Labor do that in consultation with state and territory governments, but Labor also went out and had community consultations across the country. Every state and every territory had a range of consultations during the day and in the evenings so that the community and educators—those working in the early childhood education and care sector—parents, owners and operators, were able to have their say about the sorts of reforms that Labor felt were necessary for the early childhood education and care sector in this country.

We did that through phasing in those changes. One of the first things we did to take advantage of that early brain development was to introduce an Early Years Learning Framework to standardise the sorts of development opportunities for early childhood centres to participate in across the country. I would have to say that I took part in those consultations and they were really, really well received by the sector. The sector felt that the Early Years Learning Framework was something that would positively assist the development of the experiences that young children were receiving in early childhood centres.

Labor did not stop there. We then embarked on looking at the ratios. Prior to Labor coming into government, if you were a carer in Tasmania compared to, say, a carer or an educator in Western Australia and you were in the under-twins, in Tasmania you were expected to care for five babies—one educator to five babies. So one of the things Labor did very early on was to standardise those ratios—because why should children in Tasmania have poor ratios when children in Western Australia were enjoying a ratio of four babies to one educator? With the agreement of states and territories, Labor moved federally to reduce ratios and to improve them across the country. Again, there was consultation with the states and territories, consultation with the community and a phased in approach which is still going on as we speak.

Labor has a proud record when it comes to early childhood education and care in this sector. What we know about early childhood education and care in this sector is that around 70 per cent of centres are run by a single operator or operators who operate one or two centres—and these are private operators—and around 30 per cent of the long day care sector is run by community organisations. We then turned to what the Abbott government, when it was in opposition, looked to do in terms of a policy. You would have to look really hard
because it does not really have a policy. In fact, what we saw was a lot of chatter and a lot of rhetoric by Mr Abbott when in opposition and, indeed, from Sussan Ley when she was the opposition spokesperson on early childhood education and care. They seemed to be focused on two areas. One was cost to families, and, yes, cost to families should always be at the forefront of our considerations.

But what the Abbott government did when in opposition was simply blame Labor for increasing costs when it acknowledged that it is a market. Child care in this country is a market, and it is up to those single operators to determine the price. Interestingly, the then opposition supported private business but did not seem to understand that child care in our country is largely a private business. In opposition and in government the coalition promotes competition but does not seem to promote competition in the early childhood space. In fact, they seem to ignore it.

We saw the Abbott government do two things. It does not have a comprehensive policy on early childhood education and care. It flicked early childhood education and care off to a Productivity Commission inquiry. In doing so, it completely abrogated its responsibilities in relation to early childhood education and care in this country. It flicked a report off to the Productivity Commission and asked the Productivity Commission to look at how to make child care more accessible and more affordable. I am not quite sure why a government would abrogate its responsibilities to the Productivity Commission, but that is what it has done. A draft report is due out soon. The final report is due out sometime in October. But, as we know, it is really up to the government as to when that report sees the light of day. Given that October is getting towards the end of the year, I doubt—although I would like to be found wrong on this—that the report will see the public light of day until early next year because the government does not have to do anything at all. The release of the final report is clearly in the government's camp, so let's see how long it will take them to release the final report.

The other thing Mr Abbott did prior to the election was write to every childcare service in the country complaining about the high cost of child care. Yet what we have seen this government do in the budget, for the first time in our history and for the first time in the history of early childhood education and care in this country, is attack the childcare benefit. The childcare benefit is paid to low-income families—it is a means tested rebate—because families right across our community need child care to enable parents to go to work. But the government has chosen, for the first time ever, to cap the upper limit of the childcare benefit. That will deliver a very significant saving to the government. During Senate estimates I tried to get some response from the government about what that money—that savings measure of over $200 million—was going to be used for. All they could tell me was that it would go into general revenue into the childcare space. But they had no targeted plan about helping very low income families into child care—nothing, complete silence.

In relation to the affordability question, which for some strange reason the government has lumped on the Productivity Commission, it seems—and you hear this in their rhetoric every day—that they like the Australian community to believe that somehow Labor failed to address the increasing costs of child care and somehow it was our fault. The government is trying to paint a picture that shows it can control the costs of child care, even though child care is largely a private market in Australia. So in Senate estimates I asked Ms Wilson, one of the department officials, about this and she said:
The market is the market; we do not intervene in the market.
So here we have, seemingly, a direct contradiction from Mr Abbott, the Prime Minister, and
Ms Ley, the minister for early childhood, implying that somehow they can control the market,
when their very own department, in Senate estimates, says very clearly that the department
does not intervene in the market. So let's see what rabbit Mr Abbott pulls out of the hat once
we get the Productivity Commission inquiry report sometime in the future.

The other interesting piece about the Productivity Commission inquiry increase is that, in
opposition, Mr Abbott was very, very clear that he wanted to take the envelope that is
currently available for childcare benefit and childcare rebate and ask the Productivity
Commission how to stretch it even further. At the time, Labor warned that doing that would
mean costs would increase for parents.

We do not even have the final Productivity Commission report. We do not know what
ideas the Productivity Commission report is going to include. But we already see the Abbott
government increasing costs for the users of child care in our community by capping the
childcare benefit. That means that as parents' incomes increase and they go beyond the cap,
they will no longer be eligible for childcare benefit. And the government has extended the cap
on the childcare rebate. So there are huge savings that the Abbott government are making at
the expense of working families in our country. That is absolute hypocrisy.

We have a government that has no plan for child care, despite what it said in opposition—
no plan at all, except its referral of the whole matter to the Productivity Commission. You
would have to ask why it didn't wait. Why did the government choose, during the budget, to
really hit working families through the changes it has made to the childcare benefit scheme
and to the recapping of the childcare rebate? We will see market costs continue to increase in
child care. NATSEM has a report out this morning that shows it is barely affordable for low-
income families to work. We had figures quoted where the primary caregiver—usually the
woman—earns as little as $3.45 an hour. It demonstrates how critically important it is for
both parents in a family to be working—or, indeed, to have one parent working—when
women, in the main, are working for as little as $3.45 an hour and they still need that very low
hourly rate to contribute, to try to balance their family budget. Mr Abbott has made it much
harder for those families to make ends meet. Never mind all of the other harsh and cruel
outcomes for families in the recent budget, like the $7 GP tax and all of the other imposts that
families are going to suffer in our country. In the one area where we had some certainty the
government has now created uncertainty. Those low-income families will be very concerned
about losing their childcare benefit and the childcare rebate, that it will not be able to sustain
them for the whole 12 months that they need child care.

The NATSEM report goes even further. It reports—and this has been known for a while,
too—that the childcare rebate benefits those families at the top end of the income scales, those
who are more able to afford care. What will this mean for families? It means they will
probably cut back on using quality early childhood education and care, so vital for the
development of their children. We will see cutbacks. We may see a greater use of unregulated
backyard care. That is certainly not good for families. It would be a terrible decision for
working families to have to make. I am sure that we will see, where grandparents are
available, a greater impost on grandparents to take up the caring responsibilities.
Is it the response of the Abbott government to say to families, 'You're on your own'? Time and time again I have heard in this place the government saying that it is the responsibility of states to provide education and health, and on and on it goes. Obviously the Abbott government has taken that to a new low by saying to families, 'Actually, the responsibility for early childhood education and care is yours and yours alone, because we are interfering with the childcare benefit, and while we are at it we are going to cap the childcare rebate.' They are doing this almost on the eve that the draft report of the Productivity Commission inquiry is due out. Why would a government do that? For two reasons. One, they demonstrate very clearly their complete misunderstanding of the early childhood sector in this country. Two, they are so intent on making budget savings that they do not really care where they come from. Attacking the lowest paid in our community by this move on the childcare benefit is really a disgraceful act. It is quite disgraceful.

It is hypocritical, too, given that the Productivity Commission, as we speak, is looking at accessibility of affordable care. What a mockery that is, when the Abbott government has now made care more expensive. Do we now have an addendum to the Productivity Commission? 'Oh, by the way, can you look at what we've done in the budget and include that in your recommendations?' At the eleventh hour they are suddenly changing the whole of the Productivity Commission inquiry, because we have a whole new rule applying to childcare benefit, that the Productivity Commission may or may not have the time to take into account. But, given the draft report is out shortly, I doubt that it will be able to.

As I said, the Prime Minister personally wrote to all centres about the impact of capping the childcare rebate—that is something Labor did—saying that it would mean increasing out-of-pocket costs for families. Yet in the budget we see that the Abbott government has done just that. What hypocrisy. What hypocrisy to say on the one hand, before the election, so desperate to win votes, that somehow they could control a market which their own department says they cannot, that they could somehow try and hoodwink parents into thinking that the government could control the costs. Parents know full well, because it is parents who are fronting up to services in this country every day of the week, who are forking out greater and greater amounts of out-of-pocket expenses, thanks to the Abbott government. They know the truth. Mr Abbott and his minister, Ms Ley, will not come out and say the truth, but families experiencing those rising costs will know every day of the week—will know very clearly—who increased their out-of-pocket expenses. They will know it was the Abbott government who, before the election, in a hypocritical way, tried to pretend something quite different.

So I do not know how long Australian families are going to have to wait before we see a comprehensive, detailed plan and policy from the Abbott government, maybe never. Their record in this area is really poor. They went to the election with a promise they certainly could not keep, and we have seen an absolute breaking of that promise by this move on the childcare benefit which will impact low-income families. The Abbott government is no friend of families; that is for sure. Not only will they increase childcare costs but will also increase a whole range of things that families have taken for granted such as visits to the doctor. This is absolute hypocrisy from the government which clearly does not care about the early childhood education and care sector.
once again, those on the opposite side of this chamber are attacking families. We get a new surprise in this place every week—that is, one of broken promises, not the sort of surprise that the Australian community deserves. This government will be remembered for being a government of broken promises, a government which attacks low- and middle-income families, and a government that destroys the principle of egalitarianism—a principle that makes this country the greatest country in the world.

The Assistant Minister for Education, Sussan Ley, bragged last week that this bill would only affect families on $41,902 and above. She stated in the other place:

The CCB measure will not impact families with incomes below $41,902.

According to this government, it is okay. But I say that those people on the government benches in this place and the other place should hang their heads in shame. This government's own department has admitted that over 500,000 Australian families on low incomes of just $42,000 per annum will be hit by this measure. We know that many of them will be hit the hardest because this is not the only measure in this heartless budget that will affect these low-income families.

Early Childhood Australia modelling suggests that some of the lowest-income families will need to pay between $3,000 and $5,000 extra next year because of these cuts. Those on the other side may think, 'Oh well, what is $3,000 or what is $5,000?' But, on top of the cuts that this government has made that will impact on Australian families, that is a lot of money. Let us not forget that they are going to have to pay—unless we are able to stop it in this chamber—$7 extra when they go to their family doctor. They are going to have to pay more for their medicines—that is, if they bother to go to the pharmacy to fill their prescription. That is more money they are going to have to spend when they go and have a pathology test—that is, if they bother to go. Because those on low incomes and those families with only one income or even with two low incomes will have to think twice now about whether they can afford child care, whether they can afford to go to the doctor when they are sick, whether they can fill their prescriptions at the pharmacy. These are the things that are confronting Australian families today and into the future because of this heartless budget by this government. The Abbott government continues to make attacks aimed squarely at the low- and middle-income families of this country, and this bill will do exactly that.

Senator Bilyk here in the chamber worked in this sector for 12 years. She knows that sector inside and out. She knows not only about the impost it is on Australian families to be able to afford child care, particularly when the mother of the family returns to work, but she also knows that the workers in the early childhood sector have not had the recognition in the past that they deserve.

As I said, this is an election commitment that was made not by just a minister but by Tony Abbott himself. He promised that there would be a fair go for families. He has not delivered that. More than 970,000 families across Australia rely on early education care and support on a daily basis. They could all stand to lose support under this bill. Before the election, this government promised more affordable child care and early education. If they were serious, they would not have cut almost a billion dollars since coming to office. What did low-income families do to deserve this? That is what people are asking themselves in the community. These are unprecedented measures. This is a vindictive government and Tony Abbott has broken his word. It is very simple; he has broken his word. Labor will not support the Abbott
government's chaotic, contradictory and, frankly, warped approach to women's workforce participation put forward in this bill.

This is a government which engages in misleading and deceptive conduct, a government which strives to hurt working families. Further, in an unprecedented move, the Abbott government is seeking to freeze indexation, not just the non-means tested childcare rebate but also on the income thresholds of means tested childcare benefits. This bill cuts $336 million of childcare support from low- and middle-income families who rely heavily on this assistance. Australians across the country rely on this assistance. This government is doing this. I cannot believe that, once again, they are attacking those that need the assistance most.

At the very same time, this government is pursuing a multi-billion dollar Paid Parental Leave scheme accessible for those millionaires who do not need that support. But, no, those on the opposite side and the Prime Minister himself talk about a 'rolled gold roll out' of the Paid Parental Leave scheme. Well the Paid Parental Leave scheme that the opposition, when in government, delivered to the Australian people has been supported. It is already helping the men and women of this country to be able to take parental leave. Who is given a benefit from the government's scheme? The top end of town. That is what those on the government benches are renowned for—helping their millionaire mates. That has always been their mantra, and that is what they are still doing.

Tony Abbott's scheme is extravagant and unfair. Labor does not support providing multimillionaires with tens of thousands of dollars of taxpayers' money when families are battling to make ends meet. It is not right that when pensioners are battling to make ends meet, when families raising children with disabilities are battling to make ends meet, that $22 billion—not $22 million, $22 billion—of taxpayers' money is being paid to millionaires. We need money to go to the right priorities—low income families and families struggling with the cost of living. This bill attacks that very notion. This government needs to scrap its Paid Parental Leave scheme; it needs to go back to cabinet and it needs to reflect on struggling families and families which are struggling to live from pay cheque to pay cheque. This bill moves to cut modest, targeted and means tested child-care support for families earning as little as $42,000 a year. It is an extraordinary demonstration of this government's wrong priorities. Are we really surprised? Unfortunately, we are not, because this government has broken promises left, right and centre since being elected to government. How out of touch those on the opposite side of this chamber are with the Australian people beggars belief.

The education department estimates the change to the CCB alone will leave over 500,000 families worse off, but that is where the information stops. We all know that this government is attempting to rush changes through this place without reflecting on how they will affect Australian families across the country. This is a policy on the run. It is a policy which does not take into account the burden imposed on families struggling to make ends meet—struggling to pay for child care in this country, when we know how expensive early childhood education and child care already is and how difficult it is to get a child-care placement. This bill is deceptive—it has been rushed through in a very sly manner. I note that this is the very first time that the means tested child-care benefit is to be frozen. This bill specifically targets those families who may otherwise leave the workforce. These cuts are aimed squarely at those who can least afford it. This government today seeks to undermine its own Productivity Commission review into child care by attempting to make these drastic cuts just weeks before
parliament views a draft report on child care in Australia. This is hypocrisy by those opposite and the Prime Minister of the highest order. A responsible government would not even pursue these wide-reaching CCB changes without understanding the full impact, without receiving its own Productivity Commission's review report and without letting families have their say. This government must stop simply making up policies affecting families and recognise that these ill-conceived cuts will have a massive impact on family budgets and decisions about returning to work.

The opposition cannot support the Family Assistance Legislation Amendment (Child Care Measures) Bill 2014 because, first, the government has failed to provide sufficient information about the impact on families of the changes to the child-care benefit; second, the government has not completed an assessment of the impact on workforce participation of the changes to the child care benefit; third, the changes to the child-care benefit should not be legislated just weeks before the Productivity Commission inquiry into child care and early childhood learning provides its interim report; and, fourth, families have had no chance to have their say on these changes. For these reasons this government should hang its head in shame. It should cease this continual attack on Australian families. Never before have moves to cap the CCR come before the parliament without savings being reinvested directly into early education and care. Because of this freeze, 74,000 families will reach the CCR cap in 2014-15, and 150,000 will reach the CCR cap in 2016-17—a total of around 15 per cent of families. The government knows the impact of this cap will grow in time through bracket creep, but the savings put forward on the CCR alone, through freezing the cap until 2016-17, will see over $160 million cut from child-care assistance for Australian families.

Before the election Tony Abbott gave a commitment to the people that there would be no change to pensions. What happened there? Of course there are going to be changes. He also said there would be no changes to aged care. Once again, that is another broken promise. He also said there were no plans to change child care. In fact, he was going to put more money into child care. Clearly that is another broken promise. It is quite clear that this government has no plans when it comes to early childhood education and child care. As I said only last week when I spoke about aged-care, my area of responsibility, it is clear that this government has no plans for aged care except, once again, they are ripping $1 billion out of the aged-care budget that was going to ensure that those working in the sector would receive some further remuneration for the work that they do. As I have said from the outset, this is a heartless budget—a budget that is affecting those in our community who can least afford it. It is an attack on Australian families at a time when we should be supporting those women who want to return to the workforce. We should be supporting those women who are already on very low incomes when they do get back into the workforce. Shame on those opposite, because that is not what this government plans. The government campaigned on making child care more affordable, yet every act they have taken will do nothing but reverse that, stripping away a billion dollars from early education and care, $450 million from out-of-school-hours care—gone; $157 million for family day care services—gone; programs to increase childcare places—gone; Indigenous child and family centres funding—gone; $300 million to support educators’ wages—gone. And now an attack on the backbone of the childcare system—the CCR and the CCB cut.
This government have no vision. They have no plans in relation to health, but we do know the plans they have for education—more cuts to education. If you can afford to go to university, you will come out with a mortgage. So those young people starting out their lives in a new family will not only have a mortgage from their university studies and the opportunities they took to gain gainful employment, but if they are lucky enough to be able to buy a home, they will have a second mortgage as well. This is a government that is clearly out of touch. It is an arrogant government that will not consult with the community; it is an arrogant government that will not acknowledge that those who are on the opposite side of the chamber have something to contribute.

In the Labor government mistakes were made. But when it came to the fundamental principle of fairness and equity, we were there as a government. We gave the Australian pensioners the biggest increase they have ever received, because we recognised how hard it is for them to make ends meet. We know that they are the people who have helped to create the Australia that we have today. We know the importance and the value of having women in the workforce, so we introduced a paid parental leave scheme. We also did the back-breaking work of introducing policy when it came to the aged care sector—we were the ones who took the challenge and created a decent aged care sector. We wanted to ensure that those who work in the sector are respected, but those opposite are about tearing it down. They are not supporting older Australians. Those on the opposite side may laugh, but I am really quite surprised that those government senators who are in the chamber today would snigger at those sorts of comments, because I thought that at least they were two women who had a heart in this country. But no; they have stood by and supported a government that is heartless, and attacking those who can least afford it in this place.

I am really disappointed to have to be here today in this chamber criticising the government for yet another attack. It is not something you naturally want to do when you come into this chamber, because I am quite happy to give credit where credit is due. I always do that. But I will always speak up for the Australian community, and it is my own state of Tasmania that is going to be hit hardest by the cruel and callous lack of proper priority from this government's budget. We also have an ageing population, and that sector is going to be hit hard by this government. I also know that when it comes to early childhood education and childcare, Tasmanian families are going to be hit very hard. I took the opportunity, when I was invited, to walk in the shoes of an early childhood educator—and I doubt that anyone on that side of the chamber did that. Having been a mother of two myself, I already knew what it was like to take responsibility for caring for and raising children. But I take my hat off to those men and women who work in the early childhood sector, because they do a fantastic job. The government should be putting more money into that sector, because they are shaping the adults of the future—those who are going to pick up the mantle and continue to build this great country of ours.

I am very saddened to have to speak on this bill in this chamber today, but I urge the government to change its position and to support those in our community who need it most, and to stop attacking Australian families.

Senator XENOPHON (South Australia) (11:56): I indicate that I will not be supporting this bill as the cost implications of these measures on working families are far too great. There has been a real political blame game in relation to childcare, but may I note that famous
phrase from former Prime Minister John Howard, who talked about ‘the barbecue stopper’. The issue of childcare is one of those barbecue stoppers, because if you do not have affordable childcare, if fees are continuing to rise, if benefits and support for people to have their kids remain in childcare is diminished, then that will have a major impact on families in this country.

We know that the purpose of this bill is to affect the current childcare rebate, the CCR, retaining its annual limit of $7,500, and the current childcare benefit, the CCB, which will have its income tax thresholds at their current levels for three years from 1 July 2014, so basically the limits will be maintained and the current benefits will be maintained. But normally the CCR limit and the CCB income tax thresholds are indexed on an annual basis in line with movements of the consumer price index, so these measures effectively constitute a freeze on the annual indexation of these amounts, and the consequence of that is to make them less affordable.

I think it is important to put this into perspective. The former government implemented the National Quality Framework, which, unambiguously, is a good thing in terms of childcare. But there are costs associated with that, and my concern is that under the NQR, additional support has not been given to the childcare sector, and that additional cost pressures have been placed on the childcare sector. That needs to be acknowledged in a bipartisan way: that the NQR, with all the benefits contained within it, is actually going to cost more, and that unless you have greater government support for the sector, such as greater rebates or improvements to the childcare benefit, it is going to make childcare less affordable. And what is the consequence of that? The Australian Childcare Alliance, in their submission to the inquiries currently before the Senate—one moved by my colleague Senator Hanson-Young and the other moved by myself—made the point that removing disincentives for women to enter the paid workforce is a very, very significant issue. In their submission they quote the Grattan Institute report which reinforces the economic imperative of improving affordability, particularly for female workforce participation. The report said:

Removing disincentives for women to enter the paid workforce would increase the size of the Australian Economy by about $25 billion per year. The most important policy change is to alter access to Family Tax Benefit, and child Care Benefit and Rebate so that the second income in a family—usually, but not always, a mother—takes home more income after tax, welfare and child care costs.

That is what the Grattan Institute says.

The risk is that, if you reduce the incentives, if you call them back, if you make it less attractive for families to have their kids in child care by making it uneconomic for them to do so, you will go backwards. Our economy would miss out on an extra $25 billion a year in GDP and we would actually go backwards. From some figures I have seen, if you had a significant reduction in the number of women in the workforce, there would be a cost to GDP in the order of $25 billion. So we are talking about a $50 billion differential here.

At this stage, I want to inject the government's proposed Paid Parental Leave scheme into this debate. I do not support it. I do not support it because I believe the policy focus ought to be on making child care more affordable. The Paid Parental Leave scheme, whether it is gold plated, platinum plated, silver plated or copper plated—it does not matter what it is plated with, or even if it is scaled back—is something that, philosophically, does not make sense. We ought to be ensuring that we have greater participation in the workforce, particularly by
women, by making child care more affordable. This bill takes us further away from that—is making us go backwards. I urge the government to reconsider its position on the Paid Parental Leave scheme. I hope that the wise heads in the coalition—those who are prepared to say that this scheme will take us backwards—prevail on this issue. It would effectively make child care less affordable.

The policy imperative, the barbecue stopper that John Howard so famously talked about, is affordable child care. Constituents stop me in the street to say, 'If child care fees go up another $5 or $10 a day, I am going to forget about staying in the workforce, because it is just not going to be economic.' We know that this has been a political football. We know that this is an issue where it is easy to get involved in a blame game.

In The Australian on 22 June, there was an AAP story by Katina Curtis. Citing a new report, the story said:
Childcare costs have skyrocketed 150 per cent in the past decade, with only electricity and tobacco prices rising at a faster rate.

You can understand why tobacco prices have gone up. Electricity prices are another issue altogether. Ms Curtis's article continues:
Parents returning to full-time work after having a child can now expect to lose up to 60 per cent of their gross income to childcare fees, loss of benefits and higher income tax rates.

That is not the way we should be doing things. We need to look around the world to see which countries are dealing with this issue better. Some provinces of Canada have a much more comprehensive system in place and their level of female participation in the workforce is significantly greater.

The Australian Childcare Alliance made an excellent submission to the Senate inquiry into the delivery of quality and affordable early childhood education and care, or ECEC, services. Their report said:
The ACA Parent Survey 2014 and ACA What Parents Want Survey 2013 highlight that the high cost of care is a determinant of families' ability to access ECEC. More than 60 per cent of families indicated that they would increase their use of childcare if cost were not a barrier.
Respondents to the parent survey also highlight that when fees increased by 10 per cent, approximately 48 per cent of parents would decrease their usage of childcare by one or more days or withdraw completely from care. This result is exacerbated with a 20 per cent increase in fees, where more than 70 per cent of families indicated that they would reduce usage by one or more days or withdraw completely.

We need to take that into account. This is not the way to go. I believe these measures are foolish. Mr Acting Deputy President Bernardi, I know it is unfair of me to address you while you are in the chair—because you are not able to interject—but I wonder if you will be raising this at your National Press Club speech in a few weeks' time?

I cannot support this bill. I can think that this government has inherited some real problems from the former government. The former government put a framework in place—very worthy, very laudable—but there was no funding for it. That has led to an increase in childcare costs. This is not a greedy sector. This is a sector doing its very best. The for-profit, the not-for-profit and the community childcare centres are all trying to do their best to deliver quality care and education for children, but life has been made difficult for them—and this bill will make things even more difficult.
We need to address those issues as a matter of urgency. I believe that this bill will make child care much less affordable. I am grateful to the wise heads in the Australian Childcare Alliance for their submission. Indeed, all the submissions made to that inquiry—from the union movement and from the not-for-profit sector—made a lot of sense. By freezing the indexation of this support to families for child care, we will see more and more women leaving the workforce.

I want to take issue with what the assistant minister, Sussan Ley, said this morning on Radio National. I acknowledge that the minister has a difficult job in grappling with the challenges of this sector, especially given the current budgetary environment. I acknowledge that and I acknowledge her genuineness in trying to deal with these issues. But I take issue with the government when they say, 'We will look at these issues once the Productivity Commission inquiry has been dealt with.' I suggest that this government is capable of walking and chewing gum at the same time. It can deal with the immediate issue of ensuring that child care is not made less affordable. This bill makes child care less affordable. I do not think we can use the Productivity Commission inquiry as a smokescreen, cover or excuse not to act now on this immediate issue.

The Productivity Commission inquiry will be important, but I believe that we need to reject this bill. The government has to go back to the drawing board and that includes having a good hard look at the Paid Parental Leave scheme—what it will cost and what the benefits would be if we scrapped that scheme and looked at making child care more affordable. That to me is the real barbecue stopper for working families out there in the suburbs.

Senator STEPHENS (New South Wales) (12:07): I rise to make a contribution to the debate on the Family Assistance Legislation Amendment (Child Care Measures) Bill 2014. My children are right in the middle of this debate—my grandchildren are in child care and my children and their partners are trying to make decisions about what they can and cannot do. I think Senator Xenophon is absolutely right: this is the barbecue-stopper conversation.

I spoke to a group of young women on the weekend who were talking about their child care options and the implications of this bill, and the cuts they represent. They were actually making those kinds of decisions and choices. They were saying, 'Okay, I'm going to have to cut back my child care.' I had my daughter and son-in-law looking at me and saying, 'After 1 July perhaps you could mind the children one day a week.' These kinds of things are being suggested to me for post-retirement!

What brought it home to me was the fact that in the weekend media I saw Minister Andrews talking about the importance of productivity, and arguing for wider participation rates by women in the workforce. He talked about the fact that because we have an ageing population we need to be more productive. At the same time that I am having this conversation with young women, all of whom are young parents, I am thinking about the investment that has gone into their education, their university time, their skills and training, and the fact that they are making decisions about withdrawing from the workplace, to withdraw their productivity from working, simply because the economics of child care do not stack up for them.

It is very interesting that several people have also mentioned the NATSEM report, which was issued at the weekend. It is a fascinating report and I commend it to everybody. On the one hand we have the government spruiking workforce participation, clearly aimed at
promoting the Paid Parental Leave scheme as a way of ensuring that mothers remain in the workforce. The evidence really is that child care is the issue. The impact of paid parental leave on workforce participation is actually minimal. The impact is to do with child care. The National Centre for Social and Economic Modelling report really bells the cat. Child care costs have gone up 150 per cent over the past decade, and while government subsidies for child care have risen to $5 billion, that is not actually enough.

Can I take you back to where one of the crises in childcare costs occurred, and that was with the collapse of ABC Learning. People will remember that a former minister, Larry Anthony, was a director of ABC Learning. I watched across New South Wales as ABC Learning actually consumed community based childcare centres across the board. Then, with the collapse of ABC Learning, communities were left with very few options. It actually made a significant contribution to the way in which childcare costs have increased.

So there is nobody in support of the measures we are debating today. Other than the government, not one person to whom I have spoken can see the logic of putting all of your eggs into the basket of paid parental leave and abandoning the vexed issue of a very complex childcare system, one that is also underfunded.

The major stakeholders, who have had much to say in the media and to the Senate inquiry, include people like Early Childhood Australia; Family Day Care Australia, who are very concerned about what is happening to them; the Early Learning Association; and the Australian Childcare Alliance. I recommend that latter's submission to everybody here in the chamber because it actually lays out well and truly what the impacts will be. Also there is the Goodstart Early Learning Network and the National Welfare Rights Association. Even the Australian Industry Group is arguing that the cuts would not be necessary if some of the expenditure allocated to the government's Paid Parental Leave Scheme was redirected.

So the nonsense we have before us today really is that, again, it is an ideologically driven position that the government wants to pursue in this measure. Several speakers have talked about broken promises—the promise that there will be no cuts to education, to health, to child care, to pensions and to universities. But what really gets my goat is that the Prime Minister wrote to childcare centres and promised them that he was going to address the affordability issue. He said that caps and freezes on childcare assistance would have the impact of increasing out-of-pocket costs for families. But now he is doing exactly that. He is actually driving up the cost of child care to such an extent that people are making serious decisions about the affordability of child care and what that will mean.

The report on the weekend provided some very interesting information. On the subject of affordability, page 15 of the report says:

Government subsidies, such as the Child Care Benefit and Child Care Rebate, have meant over the long term out-of-pocket child care prices have not increased much faster than the CPI, but the concern is around recent price growth and the likelihood of further rises.

That is what really has parents concerned. The report continues:

Child care prices have increased by 44.2 per cent in the past five years and, in the absence of additional Government assistance, family out-of-pocket costs have risen at the same pace.
The report shows five-year price increases of 44.2 per cent for child care, 78.9 per cent for electricity, 25.8 per cent for health, 31.9 per cent for education, 36 per cent for petrol, 6.5 per cent for food, 21.6 per cent for rent, and the CPI increased by 13.9 per cent.

All of those issues are issues that this government is targeting in one way or another. If out-of-pocket expenses were only happening for child care, perhaps parents could cope—but it is not just child care. I listened this morning to a young mother saying on the radio, ‘Well, I just have to think about all of these things. I have to think about an increase in child care. I have to think about parking. I have to think about road tolls. I have to think about losing my support for study.’ It gets to the stage where people are in a huge level of stress. The reason that they are in stress, it seems to me, is not just because of childcare costs; it is the cumulative impact of all of these costs. It is really very significant that the Paid Parental Leave scheme is part and parcel of the government's contribution to this debate.

The NATSEM report actually suggests that paid parental leave is a nice thing to have, but it will not impact on whether you return to the workforce. That was a discussion confirmed by the young women I spoke to on Saturday. It will not make much difference to workforce productivity and it certainly will not do much for low-income families. It is a $5.5 billion program where the more you earn, the more you get, so it is regressive. It is so logical it is regressive. It has no obvious benefit for workforce participation, whereas child care has the biggest impact in workforce participation, as well as positive outcomes for early learning among children. There is good evidence that you get better educational outcomes from investing in good-quality child care and this in turn benefits the workforce and increases government tax revenues in the long term.

There is no logic in the measures in the bills before us. It is quite illogical. There is the frustration that we have about the almost one million families—978,000 families rely on child care on a daily basis—who all stand to lose some level of support under this bill. The bill has a cumulative impact. There is $450 million that is being lost for outside school hours care. That was all part of the debate that we were having just a few years ago about the double drop-off. Now, funding to that program is going.

As I said, the Family Day Care services are very concerned that they are copping a hit of more than $150 million to those programs. That is the largest childcare service in Australia. Support to parents who are completing studying and getting back to work has been cut. The programs to increase childcare places have all been cut. Look what the government has planned for Indigenous child and family centres: that funding has disappeared. $300 billion that was to go into supporting the quality framework and educators' wages is gone.

Now, we get right to the heart of the childcare rebate and childcare benefit. It really is a disgrace, as every other speaker has said here this morning, and something that we really should be thinking about in terms of policy coherence. What are the messages that we are actually sending to our communities? What are the messages we are sending to our employers? What are the messages that we are sending to our young men and women? What are the messages that we are sending to our older folk about the way in which we value supporting families, keeping their stress levels to a minimum and understanding the value of education, the importance of the early years and the formative learning that goes on in childcare centres?
What are we forcing people to do? They are back to having conversations like, ‘Grandma might be able to mind the kids while mum goes back to work,’ or they are back to looking at working shift work, with some people doing nights and some people doing days, and never actually having the chance to spend time as a family with their children. It is a very, very backward step.

The notion that we wait for the Productivity Commission report is also nonsense. We have a situation where we have already had one report. We have had this significant report, which confirms the Grattan Institute report, and now we are having continuing considerations by the Productivity Commission. That draft report is coming down in July, so why are we rushing through this bill now? Why not wait for the draft report in July and the final report in October? No, instead we will just railroad through this whole process now and get it done as an ideological position.

The minister and the senior minister—the Minister for Social Services—have said that the Productivity Commission will solve those issues of affordability, availability and flexibility. Well, why are we here having this discussion if everything is going to be resolved? With the collapse of ABC Learning and the way in which that rippled across workplaces and communities, we saw that the issues of affordability, availability and flexibility are things that require long-term planning; wide consultations, which is something that this government has proven again and again that it just cannot do; and people actually being listened to, stakeholders being listened to and parents who understand the demands being listened to. They are parents who understand that they might be travelling for two hours a day to actually get to their childcare centre and who need some flexibility.

There are challenges around the workplace, which is not nine-to-five anymore. People work at all hours and 24 hours a day. How do we provide that kind of care? It is not going to come from radically cutting childcare rebates and childcare support in this haphazard way, it is going to come from a very comprehensive, well-thought-through process in which everyone is able to have a say. We are looking at solving an issue that is an issue for the nation. It is not an issue for just one part of the economy. Child care is one of the most frustrating and difficult challenges for employers. It is not just a challenge for families and employees, the unions or the childcare industry. We have a huge challenge ahead of us if we are looking to lift the nation's productivity. It is a national challenge that we should all be seeking to address in a really sensible and sensitive way.

I want to point out one more thing about the affordability issue before I conclude. The report that came out on the weekend from NATSEM followed a very significant piece of research it undertook around the issue of regional differences in costs and where the least affordable childcare, as a share of disposable income, was in Australia in 2013. What struck me was that, of the 10 locations identified in New South Wales, Queanbeyan has the second-least affordable child care in Australia at 8.6 per cent and then Goulburn-Yass at 8.3 per cent. Here we have two regional areas in a large part of New South Wales—very close to home for me—where the childcare stress is exactly what I was talking about to the young people on the weekend. There is a lack of affordability, there is a lack of accessibility and there is a lack of flexibility. This bill does nothing to address any of those issues. I urge people to reconsider. I urge the government to hold off until the Productivity Commission brings down its report on a comprehensive way in which we can address this issue as a nation.
Senator PAYNE (New South Wales—Minister for Human Services) (12:24): In speaking to the Family Assistance Legislation Amendment (Child Care Measures) Bill 2014, I want to thank all of the speakers who participated in, and for their contributions to, the debate. This government is committed to making child care more affordable, flexible and accessible for Australian working families. I would like to start by making something very clear to address some of the wilful misinformation produced in the chamber during this debate. Overall, the government is increasing, not cutting, childcare assistance to $28.5 billion over the next four years—2014-15 to 2017-18—to assist around a million families each year through the childcare benefit and the childcare rebate.

The proposed amendments in the Family Assistance Legislation Amendment (Child Care Measures) Bill 2014 will do two things: maintain the childcare benefit income thresholds for three years and continue to pause the childcare rebate limit at $7,500 per child per year for a further three years. Both of those measures will apply from 1 July 2014 for three years to 30 June 2017. It is fiscally responsible for this government to maintain—not cut, as the opposition would have you believe—the current CCB income thresholds, along with the current CCR annual limit, pending the outcome of the Productivity Commission’s inquiry into child care and early learning in October 2014. The terms of reference for this broad-ranging inquiry include consideration of rebates and subsidies for child care. The draft report due next month will give us the first insight into their proposed reforms.

The measures contained in this bill, however, are moderate and necessary. The Senate Education and Employment Legislation Committee noted:

… the committee is persuaded that these measures are limited, well targeted and for a finite period of time, and are a necessary part of the broader government agenda of repairing the budget and strengthening the economy.

The government is making decisions that will prepare Australia for the long-term challenges and opportunities that confront us. The childcare benefit measure in this bill is a 2014 budget measure and is one element of the government’s broader measure to maintain eligibility thresholds for Australian government payments for three years. Maintaining the childcare benefit income thresholds will provide an estimated saving of $230 million over the forward estimates. The childcare benefit eligibility requirements will remain unchanged. This is not a cut. The government will continue to index—that is, increase—the childcare benefit standard early rate and increase the minimum hourly amount and the multiple-child loadings by the consumer price index on 1 July each year.

It is important to note that the out-of-pocket expenses incurred by most families because of the childcare benefit measure will be reduced by the childcare rebate, which is not income tested and which covers up to 50 per cent of out-of-pocket childcare costs up to $7,500 per child per year. The childcare rebate indexation pause at $7,500 was first implemented by Labor in 2011. Labor announced an extension of the measure as part of their 2013 budget. They took the $105 million in savings from the budget bottom line but never legislated for it. When this government sought to legislate the measure, Labor combined with the Greens in the Senate earlier this year to block the legislation that would have given effect to their own measure, which was then part of the Social Services and Other Legislation Amendment Bill 2013. So I welcome their apparent change of mind. It is good to see that the opposition is apparently no longer opposed to their own measure.
The CCB measure will not impact families with incomes below $41,902, which is the lower income threshold for CCB. These families will continue to receive the maximum rate of childcare benefit. Families with income above $41,902 will continue to receive CCB. The amount of CCB a family receives tapers to zero as their income increases to the relevant maximum income limit. The CCB measure in this bill ensures that the payment is fair and sustainable in the longer term for families who need it most. I want to repeat this, because families need to be aware, despite the broadbrush accusations of those opposite, that the hourly and weekly rates of childcare benefit will continue to be indexed—that is, to increase. This means that per hour the amount of childcare benefit that families receive will in fact continue to increase.

A number of speakers on the other side referred to the Productivity Commission's inquiry into child care and early childhood learning, which this government has called. In fact, one of the speakers on the other side said, somewhat bemusedly, I thought, 'Why is there no plan?' I suspect there is no plan because those opposite did nothing to create a plan themselves for the entire period of their time in government, so we have called the Productivity Commission's inquiry. The measures in today's bill do not in any way pre-empt the Productivity Commission's inquiry into child care and early childhood learning, which is a holistic review into what is needed for the next generation, not just for the next few years. We are maintaining the current CCP income thresholds, along with the current childcare rebate annual limit, pending the outcome of the Productivity Commission's inquiry into child care and early learning in October this year.

As part of its broad-ranging review the Productivity Commission is looking into 'the rebates and subsidies available for each type of care'. Its fourth term of reference in fact specifically asks the commission to look into:

Options for enhancing the choices available to Australian families as to how they receive child care support, so that this can occur in the manner most suitable to their individual family circumstances. Mechanisms to be considered include subsidies, rebates and tax deductions, to improve the accessibility, flexibility and affordability of child care for families facing diverse individual circumstances.

Thousands of submissions and comments have been received and a number of them have highlighted just how complex these payments currently are for families and service providers alike. I look forward to the Productivity Commission's draft report next month, but the childcare benefit and childcare rebate measures in this bill are moderate and necessary measures for this time.

We know that Australian families need flexibility. For example, in their submission to the Productivity Commission inquiry, the Police Federation of Australia highlighted that particular need for flexibility. They said:

Due to the dynamic nature of policing, working patterns can change at a moment’s notice. Rosters are rarely consistent over an extended period of time; the shifts an officer is working one fortnight may be completely different the next fortnight.

These concerns are also echoed by the Queensland Nurses' Union, another sector where shiftwork is required, whose submission states:
… the lack of appropriate childcare services is a major barrier to nurses returning to the workforce after having children. … With the proliferation of non-standard working hours in other areas of employment this difficulty is beginning to become a “mainstream” problem for many working families.

That is why we have asked the Productivity Commission to look into this. We want to fix the whole system and not just keep the bandaid approach of the previous government.

I would remind the Senate that the Productivity Commission inquiry is a broad-ranging inquiry. I have referred to some of the terms of reference. Another of its terms of reference is to look at the 'types of child care available including but not limited to: long day care, family day care, in home care including nannies and au pairs, mobile care, occasional care, and outside school hours care'. We are looking at flexibility for today's modern families and we are not limiting that discussion to some sort of class warfare based campaign, which those opposite are so intent on fuelling. It is really about time those opposite moved beyond class warfare on this issue and seriously acknowledged that what Australian families need in child care is flexibility and choice.

It is interesting to talk a little about Labor's legacy in this area. Frankly, many commentators would say that they have no credibility on child care. I recall vividly that before 2007 the Australian Labor Party promised Australian families that they would make child care more affordable. Instead, under six years of a Labor government childcare fees skyrocketed 53 per cent. That is around $73 extra a week for a family using the average hours of child care—that is, 27.7 hours for long day care—or it is around $3,500 extra a year for the usual 48 weeks of child care. They left behind a messy concoction of red tape and bandaid solutions which cost not just childcare centres but ultimately parents more. They failed completely to deliver on their promise to build 260 new childcare centres. We all remember one of their prime ministers—Mr Rudd, I think—saying that this would end the double drop-off. Two hundred and sixty were promised, and when did they stop? They stopped after 38. In April 2010 the then minister, Kate Ellis, announced on the second page of a press release that 222 of the 260 centres would not be built—a clear broken promise to Australian families. Labor also cut $12.6 million in funding for occasional care from July 2010—a cut that hit rural and regional areas particularly hard, where occasional care is often needed due to seasonal work such as harvesting and shearing. I am very proud to say that the Abbott government has restored that funding in this budget. In fact, Labor's failure to address comprehensively and strategically the issue of child care in their six years in government was what was highlighted by yesterday's NATSEM report, which states at page 27:

Government subsidies help to keep a lid on families' out-of-pocket child care costs, but it is hard to escape the conclusion they have also helped drive up prices and the cost to government. The higher prices go, the more financial assistance families will require and so the cycle continues. Labor, as in so many other areas, threw money at the problem on the nation's credit card and, as the NATSEM report says, helped to drive up prices and the cost to government.

The Labor Party have made it clear in their remarks that they will not support both measures of this bill, and I note that the opposition has indicated an amendment this morning to remove the childcare benefit component of this bill. We do not back down from the childcare benefit measure in this bill. We do not waver on our commitment in regard to the childcare benefit measure, because it is an important 2014-15 budget measure that aims to help fix the budget mess left by Labor. However, we do accept that, in order to secure Labor's
own savings from their 2013-14 budget, we will need to separate these measures. The
government will agree to remove schedule 1, item 2, page 3, lines 7 to 13. We will hold Labor
to their actions in government by agreeing to this amendment and seeing Labor’s CCR
measure passed by this parliament. The government also gives notice that in so doing, we
intend to reintroduce the CCB measures as a bill in the House of Representatives as soon as
possible.

The government will oppose the opposition’s second reading amendment because these are
measures that the government has pursued in order to address the absolute mess in the federal
budget that Labor left behind. The government will also oppose the Greens’ second reading
amendment.

Question agreed to.

Senator HANSON-YOUNG (South Australia) (12:38): I move the second reading
amendment standing in my name:

At the end of the motion, add:

but the Senate is of the opinion that, rather than punishing families, revenue should be raised from
big miners, bankers and polluters through:

(a) applying a ‘public insurance’ levy on the big four banks that are too big to fail;
(b) removing fossil fuel subsidised fuel for big mining companies;
(c) retaining the billions in revenue from the carbon price;
(d) implementing the original super profits mining tax;
(e) imposing a millionaires tax;
(f) taxing discretionary trusts as corporations; and
(g) imposing a levy on thermal coal imports exports.

I foreshadowed this amendment in my speech on the second reading. This amendment is due
to the fact that families are being asked to pay for the budget savings of this government,
rather than those who are in a better position to help raise revenue—that is, big miners, big
banks and big business.

The ACTING DEPUTY PRESIDENT (Senator Bernardi): The question is that the
second reading amendment moved by Senator Hanson-Young be agreed to.

The Senate divided. [12:42]

Ayes .................... 9
Noes ...................... 42
Majority ................. 33

AYES

Di Natale, R
Ludlam, S
Rhiannon, L
Waters, LJ
Wright, PL

Hanson-Young, SC
Milne, C
Siewert, R (teller)
Whish-Wilson, PS

NOES

Back, CJ
Bernardi, C

CHAMBER
Question negatived.

The ACTING DEPUTY PRESIDENT (12:46): The question is that the bill be now read a second time.

The Senate divided. [12:46]

(Acting Deputy President—Senator Bernardi)

Ayes ....................41
Noes ....................9
Majority .................32

AYES

Back, CJ ................ Bernardi, C
Bilyk, CL .............. Birmingham, SJ
Bishop, TM .......... Boyce, SK
Cameron, DN ......... Carr, KJ
Collins, JMA ......... Farrell, D
Furner, ML ............ Gallagher, AM
Heffernan, W ........ Kroger, H (teller)
Lines, S ............... Ludwig, JW
Lundy, KA ............. Macdonald, ID
Marshall, GM ......... McEwen, A
McKenzie, B .......... McLucas, J
Moore, CM ........... O'Neill, DM
O'Sullivan, B ........ Payne, MA
Peris, N ............... Polley, H
Ruston, A ............. Ryan, SM
Scullion, NG .......... Seselja, Z
Singh, LM ............. Sinodinos, A
Smith, D .............. Stephens, U
Sterle, G .............. Thorp, LE

NOES

Bilyk, CL .............. Birmingham, SJ
Bishop, TM .......... Boyce, SK
Cameron, DN ......... Carr, KJ
Collins, JMA ......... Farrell, D
Furner, ML ............ Gallagher, AM
Heffernan, W ........ Johnston, D
Kroger, H ............. Lines, S
Ludwig, JW .......... Lundy, KA
Macdonald, ID ....... Marshall, GM
McEwen, A (teller)  .. McKenzie, B
McLucas, J ........... Moore, CM
O'Neill, DM .......... O'Sullivan, B
Payne, MA ............ Peris, N
Polley, H ............. Ruston, A
Ryan, SM ............. Scullion, NG
Seselja, Z ........... Singh, LM
Sinodinos, A ......... Smith, D
Stephens, U .......... Sterle, G
Tillem, M ............. Thorp, LE
Urquhart, AE ........ Williams, JR
Question agreed to.
Bill read a second time.

In Committee

Bill—by leave—taken as a whole.

Senator KIM CARR (Victoria) (12:50): Mr Chairman, the opposition opposes item 2 in schedule 1 in the following terms:

(1) Schedule I, item 2, page 3 (lines 7 to 13), to be opposed.

The amendment will have the effect of splitting the bill and I understand the government agrees to the amendment. I have explained our arguments in the second reading stage of this bill and, as a consequence, I do not think we need to prolong discussion any further.

Senator PAYNE (New South Wales—Minister for Human Services) (12:50): I indicated in my concluding speech that the government is supporting this amendment and I outlined the reasons in that speech.

Senator HANSON-YOUNG (South Australia) (12:50): I want to make clear the Greens' position on this amendment put forward by the opposition. As I outlined in my second reading speech, we obviously do not support the freezing of the indexation that impacts on the income levels because it will push childcare costs up for families that are currently accessing the Child Care Benefit. But we are extremely disappointed to see both the Labor Party and the coalition working to effectively tick through the continued freeze on the Child Care Rebate as a result of this amendment. It is a little frustrating to have sat and listened to the speeches for the last hour and a half as to how concerned people are about the increase of fees and costs of child care only then to see the opposition tick through half of them. They seem to be saying: 'Oh, well, we'll stop the benefit, but we'll tick through the freezing of the rebate.' This is going to affect over 100,000 families. It is going to push up prices—and as we know, childcare fees are rising; over the last decade they have risen by over 150 per cent—and, because they are rising each year at a faster rate even than CPI, over the next financial year, the one after, and the one after that—over the forward estimates—parents are going to start to hit the $7,500 cap much faster. We know that this is already happening, with parents getting to the second half of the financial year and having already hit that rebate cap. They are having to withdraw their children from the last few months of child care for the financial year—because they simply cannot afford to be paying those fees without any rebate coming back to them. So it is extremely disappointing to see both of the major parties in this place, despite all of the hoo-ha
about the cost of child care, now working together—colluding—to effectively push up prices and to make things even more difficult for those families who need access to the childcare rebate.

This bill should have just been voted down in its entirety. There is nothing good about this piece of legislation. This is a cost-saving measure by a government who, rather than raising revenue in places where it could come from—the big miners, the big banks—and ensuring that people pay their fair share of tax, are instead cost shifting to families. The bill should have been voted down entirely; it is interesting to see how both sides in this place will now work together to allow a massive hit on household budgets. It is extremely disappointing.

The TEMPORARY CHAIRMAN (Senator Bernardi): The question is that item 2 of schedule 1 stands as printed.

Question negatived.

Bill, as amended, agreed to.

Bill reported with amendments; report adopted.

Third Reading

Senator PAYNE (New South Wales—Minister for Human Services) (09:55): I move:

That this bill be now read a third time.

The ACTING DEPUTY PRESIDENT (Senator Bernardi): The question now is that the bill be read a third time.

The Senate divided. [12:59]

(The Acting Deputy President—Senator Bernardi)

Ayes ...................... 39
Noes ...................... 10
Majority ................ 29

AYES

Back, CJ
Bilyk, CL
Bishop, TM
Brown, CL
Cameron, DN
Collins, JMA
Faulkner, J
Gallacher, AM
Lines, S
Lundy, KA
Marshall, GM
McKenzie, B
O’Neill, DM
Payne, MA
Polley, H
Scullion, NG
Singh, LM
Sterle, G
Tillem, M
Williams, JR

Bernardi, C
Birmingham, SJ
Boyce, SK
Bushby, DC
Carr, KJ
Conroy, SM
Furner, ML
Kroger, H (teller)
Ludwig, JW
Macdonald, ID
McEwen, A
Moore, CM
O’Sullivan, B
Peris, N
Ruston, A
Seselja, Z
Smith, D
Thorp, LE
Urquhart, AE
Monday, 23 June 2014

SENATE

3539

Di Natale, R
Ludlam, S
Rhiannon, L
Waters, LJ
Wright, PL

Hanson-Young, SC
Milne, C
Siewert, R (teller)
Whish-Wilson, PS
Xenophon, N

Question agreed to
Bill read a third time.

Infrastructure Australia Amendment Bill 2013

Second Reading

Debate resumed on the motion:
That this bill be now read a second time.

Senator CONROY (Victoria—Deputy Leader of the Opposition in the Senate) (13:02): Building the right infrastructure is critical to national economic development and productivity. To secure the productivity gains that drive jobs growth, you need to invest in roads, ports, railway lines and airports. Most importantly, you need to ignore the electoral map. Governments need to take a long-term view, to take funding decisions based on the national interest rather than on political interests. Now, I know this entire discussion is going to be anathema to the National Party of Australia, because their sole purpose in building infrastructure is to pork barrel their own seats. But what this parliament—this country—needs is long-term planning.

Labor has a proud history of focusing on nation building. When Labor was elected in 2007 we set about trying to de-link the infrastructure investment cycle, which is by definition long term, from the electoral cycle, which is much more short term. Infrastructure Australia was specifically designed as a vehicle to do just that. Infrastructure Australia was established by the Labor government in 2008 following passage of the Infrastructure Australia Act that year. Since then, it has been ably led by council chairman Sir Rod Eddington and until very recently was led by infrastructure coordinator Michael Deegan. In this short period, Infrastructure Australia has overhauled and driven lasting improvements to the way Australia plans, assesses, finances, builds and uses the infrastructure it needs to compete in the 21st century. To date, its achievements include completing the first-ever infrastructure audit and putting in place a national priority list to guide investment into nationally significant projects that offer the highest economic and social returns. And the former Labor government committed to funding all of the 15 top-priority projects identified.

It also developed the national public-private partnership guidelines to make it easier and cheaper for private investors to partner with governments to build new infrastructure. It finalised long-term blueprints for a truly national integrated and multimodal transport system capable of moving goods around Australia as well as into and out of our country quickly, reliably and efficiently. These include the national port strategy, the national freight strategy and, more recently, the urban transport strategy, as well as conducting pilot work on improving governance and developing rigour around evidence based road funding. This is a
record that we on this side of the chamber are proud of. What we do not want to see is a reduction in the independence of Infrastructure Australia that helps deliver these outcomes. This is what our amendments are all about.

The first Abbott budget, delivered just a few weeks ago, was largely reannouncements of projects already funded by Labor. I invite everybody listening, everybody who reads this transcript, everybody in this chamber, to go to the Guardian's website to see the shadow minister for infrastructure absolutely nail this in a way that has gone viral—because it deserves to go viral. It generated over 50,000 hits on YouTube and the Guardian online.

A similar video done by the Assistant Minister for Infrastructure and Regional Development, selling the dubious wares of the Abbott government's budget, was not quite as successful. It may surprise you, Mr Acting Deputy President, that a glossy government video which cost taxpayers around $70,000 trying to sell that dog of the budget was seen by only 3,000 people on YouTube. They spent $70,000 for 3,000 people to look at it on YouTube. There were only 2,000 hits a couple of weeks ago when I first raised it at estimates. It looks like I have made it famous. For the benefit of the Senate, that is about $25 a viewing to look at this government's infrastructure proposals on YouTube.

Senator Ian Macdonald: What does it have to do with the bill?

Senator CONROY: I know this is only a small example—and I will take that interjection from Senator Macdonald, who gave a stunning critique of this government's budget in this chamber from that very seat only last week. It is a small example of the government's spending not being as well directed as it should be.

What we also found out during the estimates process was that the handful of new projects announced have not been assessed by Infrastructure Australia. That is right—the announcements made by the federal government in the last budget were never assessed by the very body set up to assess these types of projects. Yet billions of taxpayer dollars have already been committed by the Abbott government.

In the case of East West Link stage 2, a road project in my home state of Victoria, the money will be out the door by the end of next week, pushed off to the Victorians, even though the project is not due to start for another 18 months. They are going to have $1 billion or so 18 months in advance of the project actually starting. This is a project that Infrastructure Australia has not even assessed as being ready to proceed. There is not a starker example of why we need to make Infrastructure Australia an essential element of our decision making than this one.

In fact, I asked the officers from Infrastructure Australia at the table during estimates, 'Have you received any information from the Victorian government yet?' They said, 'Only the most high-level.' I said, 'I am from Victoria. I have read a lot about East West Link 2. Can you identify for me yet where the tunnel is going to come out?' They have actually started funding a tunnel for which they know where they are going to start digging but do not know where they are going to have it come up. I have never heard such an absurd example of pork barrelling to help a flailing and failing state government than funding and building one end of a tunnel when you do not know where the tunnel is going to come up. Seriously? They have sent $1 billion out the door 18 months before it is even scheduled to commence. They do not know where the tunnel is going to come up. It is just extraordinary.
But it is no surprise the lengths to which this government will go to prop up its failing state governments. That, more than anything else, goes to the core of why this government's original bill should be rejected. It is a bill that attempted to gut the independence of Infrastructure Australia, to make it compliant to the minister's wishes, to make it ignore its own research and to make it ignore its own results. That is why the amendments that are being put forward today are so vital. These amendments that Labor is putting forward to this bill and the Land Transport Infrastructure Amendment Bill seek to deliver that independence and maintain it. These amendments enhance Infrastructure Australia. They deliver independence and transparency and embed Infrastructure Australia as a key pillar in deciding how the scarce Commonwealth infrastructure dollars are spent.

This is like a wooden cross to a vampire when it comes to the National Party of Australia. Their entire reason for existing is to be able to say to their constituents, 'Don't worry about all the things that the Abbott government are doing to pensions. Don't worry about all those things they are doing to rural kids who want to go to university. We've got a promise to build a road through the middle of the electorate, even though it has not been assessed or has failed assessment.' That is what this is really about. It is about a culture in the National Party, and tragically occasionally among some rural Liberals, where they think that if they can just build a road they can convince their electors to not notice a cut in pensions, increasing taxes on petrol or the cost of university education for regional kids going up. That is all this bill is about—the business-as-usual pork barrelling of the Nationals and rural and regional members of the Liberal Party. As Senator Macdonald frequently tells us in this chamber, there are more of those rural and regional Liberals then there are Nationals. Unfortunately, that is a disease that has crept in, too—competitions to see who can pork barrel their electorates the most.

What have we seen in the way of consultation when it comes to this government's bill? The evidence of the Senate inquiry into this bill is that the department drew up drafting instructions based on the new government's election policy and discussions in the minister's own office. There was no formal consultation on the detail of the bill prior to its introduction with any stakeholders outside of the government. No formal consultation took place with interested parties such as Infrastructure Partnerships Australia, the Business Council of Australia, the Urban Development Institute or the Tourism and Transport Forum. They did not even talk to their usual business mates. Indeed, the government did not formally consult on the detail of the bill with Infrastructure Australia or the Infrastructure Coordinator. So they ignored every single possible source of advice that they could because they knew what they were up to. They knew they intended to gut the independence of this organisation because it would not bend to their will and give $1 billion 18 months in advance for a road and tunnel in Melbourne that they do not even know where it is coming up yet. There is no way that would pass the smell test—except the smell test of a dying Liberal government in Victoria.

Many other organisations were also not consulted on this bill. That is evident from the written submissions. Given the criticism that this bill has received—broad criticism across the whole business community—it is clear that the government would have been better advised to have sought detailed input via an exposure draft process at the very least. There is scant evidence that the coalition's election policy was a guide—this bill is in no way a reflection of the policy outlined in its documents. It is another Liberal lie: 'Here is our election promise,
and here is the bill that meets our election promise.’ Tragically, they are not even close to each other. Just as in so many other areas, this is a bill full of broken promises.

This government has been dragged kicking and screaming to a position long advocated by Labor. Those opposite will be supporting many of Labor's amendments because this bill is so bad that even the Business Council of Australia criticised it. The bill as it was originally set out sought to change the governance of Infrastructure Australia by changing its corporate character and lines of reporting, fleshing out its functions and eliminating others. Of greater concern, however, was its plan to enhance the minister's explicit powers to direct Infrastructure Australia's operations—that is right, history repeating itself with a National Party minister wanting the power to tell them what to do. As I have already mentioned on a couple of occasions, Infrastructure Australia would not pass $1 billion 18 months in advance to a state government that had submitted no plans and did not even know where the tunnel would come up.

Without the amendments put up by the opposition and now adopted by the government, this bill would have allowed the minister to exclude whole classes of projects from evaluation—for example, public transport. The bill in its original form would have been highly corrosive of the independence of Infrastructure Australia, whose primary role is to provide expert advice to government. The amendments the government will shortly move to its own bill will remove proposed significant extra powers for the minister to direct the inputs to its advice to government. The opposition still has concerns that transparency is being reduced, because there is no legislative commitment to publish evaluations or evidence relied upon to make decisions. So they are still not prepared to be transparent; they still want to try to put the fix in. They still want to dole out road funding based on their electoral needs, not based on the national interest. You may think, ‘who cares?’ But they put out an election document that said they promised to have the transparency this time, hand on heart—’We promise to be more transparent than perhaps we have been in the past.’ Yet, again, we have another Abbott government broken promise; another Liberal lie.

These issues remain as serious defects in the bill, and most will have the effect of reducing confidence in Infrastructure Australia. We must do everything we can to ensure that Infrastructure Australia remains an independent adviser to government. We must do everything we can to ensure that its advice is public and independent rather than allow everything to be done at the direction of the government and behind closed doors. If Senator Macdonald is going to be truthful, he will stand up here and tell us about the number of times he has been dunned so that the government can look after National Party electorates and National Party mates. They are legion. If he is going to show the honesty he showed last week in his criticism of the budget, he will stand up here and list the times he has been dunned when campaigning for his constituents of Queensland by National Party pork-barrelling, to the detriment of the people of Queensland.

Although we note the government has taken up many of the opposition's amendments, further amendments are still needed to improve this bill. In particular, we would change the bill so that the board determines the Infrastructure Australia corporate plan, not the minister—just like several other CAC Act bodies. We would also enhance transparency by ensuring public disclosure of evaluated projects, infrastructure plans and cost-benefit ratios through legislation. Importantly, we would keep Infrastructure Australia's role to provide policy
advice on the impact of climate change on infrastructure projects. This means explicitly mandating important work such as bridge heights, road construction standards, port development and transport modes. The exclusion of climate change policy advice is further evidence that this government, at its heart, has failed to come to terms with the fact that climate change is real and has broad impacts on our environment and on our infrastructure as a result. Bridge heights, port planning, transport use, energy use, rainfall patterns and more extreme weather events all have impacts on infrastructure planning and they must remain part of sensible advice to government. I know former minister Albanese was a big supporter of smart infrastructure, and I am sure smart infrastructure should be part of the consideration of this bill. I am sure former minister Albanese will be keeping a weather eye on these developments. Infrastructure Australia would take on a new function—promoting public awareness of its functions. Finally, we would retain the income tax offset program for designated infrastructure projects as a decision made by Infrastructure Australia. This would keep decisions on significant income tax benefits to project proponents close to those tasked with recommending national infrastructure projects.

Under the last Labor government, overall national infrastructure and capital spending as a share of GDP went to No. 1 of the dozens of nations in the OECD, after languishing for years. Labor lifted Commonwealth infrastructure funding from $132 to $225 per Australian. As the Productivity Commission recently showed, public sector spending on infrastructure projects topped two per cent of GDP every year under the federal Labor government, after touching only one per cent under John Howard in 2003. Labor has a great record of infrastructure delivery. Labor created Infrastructure Australia to research and rank proposed projects; we gave it independence and we based the potential for yes or no on national economic productivity. Senator Macdonald knows a lot about infrastructure, but he did promise me once he would get an airport terminal named after me and as always, being duded by the National Party, he failed to deliver. But I wish him good luck with his contribution. (Time expired)

Senator LUDLAM (Western Australia) (13:22): Senator Conroy probably could have used another 10 minutes; he was just getting on a roll. I am very pleased to be speaking on this bill today. The Senate is debating a bill that will ultimately impact upon every single one of us, whether we live in cities or towns; whether we expect a high standard of service delivery in energy, transport, water and telecommunications; or whether we have long since given up hope. Despite the fact that only a tiny fraction of Australians will probably ever know that this bill is even up for debate, the way this vote plays out will have consequences far beyond this chamber.

Before I get into the detail of the bill the government has presented us with, I want to take a step back and ask what the government means when it talks about infrastructure. In the course of this debate that word is going to get thrown around a lot and, as usual, will be made to sound tedious, technocratic and politically neutral. To most of us infrastructure is invisible by design—the mesh of ducts and pipes unseen beneath city streets, or hidden in plain sight like the electricity distribution grid, so ubiquitous that we no longer even see it. In the industrialised world, this ubiquity and reliability means that infrastructure is unspoken, is taken for granted and is basically extremely boring—until the moment it breaks. At the point that the server goes down, or the water main blows a hole in the street, or the big one—the moment when the electricity grid goes dark without warning and winds the clock back a
This is a continuation of the text provided in the image.
Now the Commonwealth government has a long history of funding roads. We have no history of funding urban rail and I think it's important that we stick to our knitting, and the Commonwealth's knitting when it comes to funding infrastructure is roads.

Knitting—how quaint! Commonwealth infrastructure policy described by using interpretive handcraft metaphors. It gets better. This is from January 2013, again from opposition:

Better roads mean better communities…

The then opposition leader said:

They're good for our physical and mental health. They're even good for our environment because cars that are moving spew out far less pollution than those that are standing still.

So there you have it. National mental health policy just needed a good solid concrete pour for a new urban freeway.

To give legislative effect to this embarrassing and counterproductive delusion, the government had proposed to gut the independence of the Commonwealth's only, and certainly most authoritative, infrastructure advisory body—Infrastructure Australia. The original proposal was to allow ministers to compel Infrastructure Australia to assess particular pet projects. The government also wanted to be able to preclude IA from assessing whole categories of projects, to prevent them from spreading their seditious opinions on the public benefits of cycling infrastructure or public transport. We could refer to it as the 'stick to your knitting' amendment.

Keep in mind that Infrastructure Australia's processes are not determinative. This is an advisory body we are talking about. All it does is evaluate the projects that states and territories put forward to it and assemble them into a national priority list—prioritising projects it believes offer the best value for the Commonwealth's scarce capital. IA's processes are not perfect and, when we get to the committee stage, I will go into more detail about my strong concerns about how cost-benefit analysis factors are used and abused to artificially inflate the value of some projects and kill off others. The main thing to keep in mind is that IA processes are an attempt to assess infrastructure funding without politicians in the room demanding that marginal seats should all get concrete poured on them. The final decision about which projects actually get funded rests with the executive.

Exhibit A of this quite important fact—that IA is no more or less than an expert advisory body—is the Commonwealth's postelection infrastructure commitments and determinations. None of them come from IA's priority list, and the spending favours seats held by—guess what—members of the Abbot government, Liberal and National seats, by three to one. What a remarkable coincidence—75 per cent or more. How about that? That is why you need independence. That is why you need an expert in the room to keep the politicians and the politics at arm's length—which is not what we are getting. It also underlines the fact that, no matter what this chamber does with this bill and no matter how much surgery we perform to improve it and send it back to the House of Representatives, the Abbott executive is still entirely free to ignore everything we say and to cherry pick their own projects. Something obviously has to give.

As you can imagine, my first instinct was to advise my Greens colleagues to vote against this atrocity. We thought it might be worth, however, drafting amendments to see whether it could be fixed or even, heaven forbid, improved. The opposition amendments that Senator Conroy foreshadowed do go some of the way. Our amendments go some of the way—I will
talk a bit more about that in a moment and at greater length when we get to the committee stage. But the icing on this particular bit of black humour from the Abbott government was the government's own amendments—because they basically invert or gut the purpose of the bill. It is remarkable. We will see how this plays out when we get to the committee stage. It may be that the Greens will support the bill when all the amendments are finally worked through—on the basis of the fact that the Abbott government itself appears to be in the process of circulating amendments that would fix some of the dopiest features of the bill. That is interesting.

Deputy Prime Minister Warren Truss announced this extraordinary step the other day—and let us pay credit; if he is listening to the evidence, that is what we hope governments will do. He said on Wednesday that the government wanted to clear up 'ambiguities' about planned changes to Infrastructure Australia which had led to a 'misunderstanding' that its intention was to make the body less independent. No, I think we understand perfectly well what the government is attempting to do. Once we have had a chance to take a look at Minister Truss's amendments, it may be that that 'misunderstanding' is in fact cleared up and the bill can proceed. We will see.

The Greens, I foreshadow now, will be moving amendments to put the topic of climate change back on Infrastructure Australia's desk. Can you imagine the mentality of the person, sitting behind the scenes somewhere, who wanted to strike any mention of climate change from Infrastructure Australia—from an advisory body? It does not even force the Abbott government to appear to care about climate change, but it at least says the expert advisory body should pay attention to the impacts of climate change on infrastructure—infrastructure along our coastlines that is getting chewed away, infrastructure that is exposed to increased incidence of bushfires.

Climate change is going to kill people—in heatwaves. The government recently took out the Major Cities Unit, firing everybody that was providing expert advice on the future of Australian cities. It was a reasonably important entity, one would have thought—and kudos to the former Rudd government for setting it up in the first place. Given that we are one of the most heavily urbanised countries in the world, you would think maybe we need some Commonwealth expertise on city policy. Before the unit was bowled over, however, the last State of Australian cities report said that heat deaths in Australian cities would double by 2050, apart from in Queensland and Perth, where they will quadruple. It is real whether you think it is absolute crap or not. The Greens will be moving to bring climate change back within the remit of Infrastructure Australia. It will be remarkably galling for the government to have to accept the amendments to put climate change back in—because we know that a substantial fraction of their executive does not believe that it is happening at all. How nice that must be for them!

The first draft of this bill should clearly never have seen the light of day. I very much look forward to turning it into something readable and into something that may go some way towards improving service delivery and infrastructure provision to communities that desperately need it.

**Senator IAN MACDONALD** (Queensland) (13:35): This is a debate on a bill that has been through the House of Representatives. The Infrastructure Australia Amendment Bill 2013 has now come to the Senate and it will be amended by the government here. As part of
the debate, it behoves me to refer to some of the previous speakers. I will start with the most recent, the representative of the Greens. As is usual with the Greens, Senator Ludlam put forward two fallacies or dishonesties. Senator Ludlam said with great gusto that there are three times as many infrastructure proposals in seats held by Abbott government members as there are in other seats. I invite Senator Ludlam to have a look at the number of seats held by members of the Abbott government in this parliament and compare it to the number held by others. Whilst the numbers may not precisely correspond, it is certainly very much the case that, clearly, more of the infrastructure will be in seats held by Abbott government members—because so many more of the seats are held by Abbott government members.

Secondly, there is something the Greens never understand in their fascination with urban public transport—and I must say that I support urban public transport. Where I live—and in many of the places where the people I represent live—there is no tram down the end of the street, there is no regular public bus service and there is no urban rail system. The only means of transport in many parts of Australia is the private motor vehicle, hence the need for road transport infrastructure in those areas—and, I might add, the need for very careful consideration before increasing the cost of fuel in whatever way.

If you needed a demonstration of how lightly Labor treats this whole subject, and what a dearth of ideas they have on the subject of infrastructure, I refer you to the speech by the first Labor speaker on this matter, my good friend Senator Conroy. I always love following Senator Conroy, because it is always entertaining when he speaks, regardless of the fact that what he says is so insignificant as not to warrant anyone listening to it—anyone apart from me, I suspect. Senator Conroy said that all of these projects being implemented by the coalition were funded by Labor. Sorry, Labor hardly funded anything, I have to tell you. Those that it did fund it did so on borrowed money, which has now led us to the debt crisis Australia is currently experiencing. Senator Conroy's principal speech seemed to be relating to us how many YouTube hits there were on something Mr Albanese put out versus something that the Abbott minister put out. How could having a long discourse on how many hits you get on a YouTube video possibly be relevant to the question of infrastructure in Australia?

It just shows how bereft of any serious consideration of infrastructure the Labor Party is. Then, as my colleagues indicated by interjection, fancy Senator Conroy, of all people, talking about starting somewhere and finishing somewhere and not doing any of the work on the in-between bit, when there is the guy who, on the back of an envelope, initiated the most expensive piece of infrastructure ever in Australia's history. And all Senator Conroy had, apart from some rhetoric, was a start and a finish, with nothing in-between about how he would get either the start or the finish right.

Senator Conroy continues to try to make divisions between the National and Liberal parties, but I have to tell him that, sadly for you, Senator Conroy, that does not happen. When it comes to infrastructure and nearly everything the Liberal and National parties in this place are at one, and of course in my own state of Queensland we are one. But just to refute Senator Conroy's observation of pork-barrelling, as he calls it, I have to say to him that some of the infrastructure that is most important in my state of Queensland—the Bruce Highway—traverses many electorates. They are mainly coalition seats because quite frankly very few seats in Queensland are held by the Australian Labor Party. So it would be difficult to find
where there are major expenditures in Labor seats, not because there is pork-barrelling, but because there are no Labor seats. One of the few Labor seats contains the Ipswich Motorway, which is an infrastructure project being continued by this government and was of course started by the Howard coalition government.

For Senator Conroy's benefit can I say that some of the major infrastructure matters I continually urge governments to look at seriously are the Hann Highway and the Mt Isa road and rail line, both of which are not in the electorates of any coalition member, but in the electorate of an Independent. It is a seat that will become a coalition seat after the next election. It is one where the coalition candidate received some 10,500 more primary votes than the current incumbent, but saved it on Labor and Palmer United preferences. That is a seat that will have a coalition member at the next election, and it will be a coalition member who can argue for the absolutely essential infrastructure that is needed in that important part of our country, which provides links between the north and the south of our nation—that is, along the Hann Highway. The Mt Isa road and other roads in that area are desperately in need of further investment. They are important investments, because that is the part of the world that contributes so significantly to Australia's economic wellbeing. It is where most of the minerals on the eastern side of the continent come from and it also is the place that supports significant rural industries, like the live cattle industry, which was such an economic fillip, prior to the senseless ban by the Labor government.

From hearing Senator Conroy it would seem that he has not read the bill and certainly has not read the government amendments, because what he was saying was entirely contradictory on what the proposal actually says. Senator Conroy asked me to list the number of times that Queensland—I am not sure who he meant, but let us say Queensland—was duded by National Party pork-barrelling. It will not take me more than half a second to give you that list, because there is nothing in the list. There are no instances I can think of. But if he asked me to list the number of times the Labor Party has duded Queensland in relation to infrastructure, it would take more than the 20 minutes allowed to me in this speech.

I want to refer now to some of the matters in the speech. First, I think that over the years since its establishment Infrastructure Australia has done a very good job. I particularly praise Mr Michael Deegan, the original CEO of Infrastructure Australia. I spent a lot of time questioning Mr Deegan at estimates. He always turned up and gave very good and full answers. He did not need a team of assistants to help him answer reasonable questions. I had a lot of confidence in the work that Infrastructure Australia had done right around the country, particularly in my home state of Queensland. I wish Mr Deegan well in his future. I thought the work Mr Deegan and his team did was excellent.

Clearly any infrastructure organisation can be improved, and I believe that these amendments by the coalition do improve particular Infrastructure Australia processes. I congratulate Mr Truss on having the courage to take these amendments and reforms through. Indeed, Warren Truss is showing himself to be a very courageous and innovative member. He is well across his portfolio and the work he has already done in civil aviation and infrastructure to date is a wonderful example of what a good government can do—that is, a government that is functional and understands the value that needs to be obtained from money.
The coalition's amendments will enhance Infrastructure Australia's existing functions to include conducting evidence-based audits of Australia's current infrastructure asset base, in conjunction and collaboration with state and territory governments. These will be revised every five years. Infrastructure Australia will develop a 15-year infrastructure plan for Australia, with this plan being revised regularly as well. All projects seeking Commonwealth funding of more than $100 million—including transport, water, telecommunications, energy, health and education, but excluding Defence projects—will be looked at and reasons will be published for the decision.

If only Infrastructure Australia had been asked to assess telecommunications in the term of the previous government, then we may not have had what I have always predicted would be a $100 billion white elephant, which will be a monument to Labor’s inefficiency and their wastefulness in building any form of infrastructure. Had Infrastructure Australia been able to look at that, then we might have got a different outcome. As senators—particularly those involved in estimates committees at the time—would know, Mr Deegan always used to very embarrassingly tell us that the NBN was not part of his remit. The government is committed to ensuring that Australia has the productive infrastructure that we need to meet the challenges ahead. We recognise that Australia needs improved planning, coordinated across all jurisdictions, to underpin investment decisions and regulatory reform.

Infrastructure Australia was established by the former government as an independent adviser to governments, in an effort to eliminate the short-term cycle in project prioritisation and to develop a new view on infrastructure priorities and policies. But there were concerns that Infrastructure Australia had not been successful in fundamentally changing the way projects are identified at a national level. Whilst it has delivered priority project lists, there are some concerns that the projects are derived from state and territory government project proposals and prioritisation is based on the extent to which the project business case is advanced, rather than the extent to which the project will contribute to improved national productivity.

The current structure does not provide the degree of independence and transparency needed to provide the best advice to government. This bill will do a number of things that will remove the ministerial power to determine a class of the proposals that IA must not eventuate. The opposition has tried to make something about this about public transport, but I want to point out that the original intent of referring to a class of proposals was to exclude Defence projects and projects seeking Commonwealth funding of under $100 million. It is important that Defence projects are excluded, because they are done for Defence strategic reasons and really need other assessments.

The amendments also remove the specific functions to be performed only when directed by the minister. The original intent of allowing for publication requests was to increase transparency to the public, while striking the right balance with commercial and confidentiality issues. There is a removal of the ministerial power to specify requirements related to time frames and the scope and manner in which Infrastructure Australia must act.

It is important that Infrastructure Australia be given all the resources and the powers to do its job and to do it in an independent and open way. However, I do raise one word of caution to the government. That is that the government should always remember that the government is elected to govern Australia. In all cases with independent authorities—no matter how good
they are and no matter how skills-based they may be—the end result is that it is governments that have to make the decisions and it is governments that are accountable to the Australian public at election time for the decisions they make. I would hate to see an occasion where all-important decisions in relation to infrastructure were made by independent—skilled, but non-representative—bodies. In a democracy, always the end result is that the democratically elected parliament must make decisions on infrastructure and, indeed, on most things.

I believe the amendment bill and the amendments to the bill proposed by the government are a good step forward. They do highlight the Abbott government's concentration on infrastructure. I am sure that the amendments in this bill and the ongoing focus by the coalition government on the absolute and imperative need for infrastructure improvements in Australia will help to define the Prime Minister as he would like to be defined, and that is as the infrastructure prime minister of Australia. I wish him well in that, because I know that if he can achieve that recognition it will mean that infrastructure in Australia will have been so vastly improved, as it should be, that it will have enhanced the economic productivity and the benefit of our nation.

Senator BILYK (Tasmania—Deputy Opposition Whip in the Senate) (13:52): I also rise today to speak on the Infrastructure Australia Amendment Bill 2013. What we need to remember first of all is that the bill we are debating here today is not the original bill that was passed in the House of Representatives, because even those opposite realised that they had gone to extremes; they had not consulted properly and so a number of amendments to the bill were agreed to over in the other place. I am pretty pleased that the government have come some way to acknowledging some of the errors of their ways.

The original bill did seek to turn Infrastructure Australia into a pork-barrelling unit, no matter what the previous speaker said. The bill aimed to tie the hands of Infrastructure Australia and prevent it from undertaking investigations into any projects or class of project that the minister and the government did not ideologically agree with. Like other government agencies that produce expert advice that the government finds inconvenient, Infrastructure Australia was due to be directed, gagged or ignored. Those opposite do not believe in good process, they do not believe in best practice and they are really not interested in infrastructure. They are certainly not the party of infrastructure—and I hesitate to say it—but I doubt that the current Prime Minister will ever be remembered as the prime minister for infrastructure. In fact, when the Howard government was in power, it funded a total of just $300 million infrastructure in Sydney over 12 years. It is those opposite who rorted the Regional Partnerships scheme for their own political benefit as well.

As I said, the Labor Party is the party of infrastructure. It is the Labor Party who realises that modern, efficient, well-placed infrastructure, built in accordance with expert advice, is what will drive Australia's prosperity into the future. It is the Labor Party who understands that building infrastructure requires vision and that the needs of the entire Australian community have to be served, not just those in marginal electorates that those opposite would like to pork-barrel. It is the Labor Party who understands that infrastructure includes ports, freight, rail, light rail, airports, communications, bridges and much more, not just more and more roads.

With regard to Senator Macdonald's comments about what the Australian Labor Party did for infrastructure—just to correct the record—the former Labor government oversaw a radical
transformation in the way that the federal government approached infrastructure. Under Labor, infrastructure spending across the economy rose to record levels. In terms of spending on infrastructure as a proportion of GDP, Australia rose from 20th in the OECD to first in 2012. We lifted funding for infrastructure from $132 to $225 per Australian. We created Infrastructure Australia to research and rank proposed infrastructure projects based on their potential to add to economic productivity. We delivered the National Ports Strategy and the National Land Freight Strategy. Total annual private and public investments in our nation's roads, ports, railways, energy generators, water supply facilities and telecommunications networks hit a record $58.5 billion in 2011-12—equivalent to four per cent of GDP; the biggest share of national income since at least 1986-87. Compared to the last full year of the former Howard government in 2006-07, Labor's annual infrastructure spending in real terms was up 59 per cent by 2011-12. Total public and private sector infrastructure spending over federal Labor's first five years in office was almost $250 billion—70 per cent growth in real terms—compared with the $150 billion spent during the last five years of the former Howard government.

I understand that Senator Macdonald does not like to acknowledge any of this, and he really did not have much to say. He spent the first nine minutes of his contribution on the bill bagging Senator Conroy's contribution. If he really had had anything to say, he would have spoken more forcefully about the good parts of the infrastructure bill and not just bag the man, my colleague Senator Conroy. But this is not unusual for Senator Macdonald; he does that. You can bet your life that, if you are on just before Senator Macdonald, he will play the man, not the policy. So we are not at all surprised by it. Labor is the party of infrastructure and always will be, because Labor knows that strong infrastructure is the backbone of a strong economy and the key to greater prosperity.

Let us get back to the bill we are debating today. The explanatory memorandum for the bill—or should I say the bill that passed the House—claims:

The Bill will strengthen the role of Infrastructure Australia, as an independent, transparent and expert advisory body through a change in its governance structure and through better clarification of its functions.

But this is utter rubbish, as the minister and his Senate colleagues know, and it is the reason why they changed it. The government does not care about planning infrastructure for Australia's long-term future. This federal government has already explicitly ruled out funding for important urban public transport projects such as the Melbourne Metro, the Brisbane cross-city rail, the Perth light rail and airport link and the Tonsley Park rail upgrade in Adelaide.

The Rural and Regional Affairs and Transport Legislation Committee inquired into this bill and reported earlier this year. The committee received 20 submissions from areas such as the Department of Infrastructure and Regional Development, Australian Logistics Council, Urban Development Institute of Australia, Infrastructure Australia, Infrastructure Partnerships Australia, the Australian Automobile Association, and the Business Council of Australia, among others. Here is a quote which should make anyone who believes in good process shudder. I hope those on the other side are listening, because it is from Michael Deegan, Infrastructure Australia's infrastructure coordinator. Mr Deegan himself said in Infrastructure Australia's submission:

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CHAMBER
I understand that the Infrastructure Australia Amendment Bill went through more than 20 drafts before it was presented to the House of Representatives. My office was not consulted during development of the Bill. This lack of consultation is both disappointing and disturbing. Those preparing the Bill could usefully have sought comment on:

- what has worked;
- what has not been so effective; and
- in consequence and most importantly, how Infrastructure Australia can be strengthened as an independent, transparent and robust adviser to governments and the Australian community.

Can you believe that? Twenty drafts!

Debate interrupted.

DISTINGUISHED VISITORS

The PRESIDENT (14:00): I draw to the attention of honourable senators the presence in the gallery of a parliamentary delegation from Sri Lanka, led by the Hon. Nimal de Silva MP. On behalf of all senators, I wish you a warm welcome to Australia and, in particular, to the Senate.

Honourable senators: Hear, hear!

QUESTIONS WITHOUT NOTICE

Future of Financial Advice

Senator DASTYARI (New South Wales) (14:00): My question is to the Acting Assistant Treasurer, Senator Cormann. Senator, I refer you to your recent announcement regarding the Future of Financial Advice package. Is the minister aware that over 100,000 Australians have been victims of collapsed investment schemes such as Storm Financial and Timbercorp? Why is the minister winding back consumer protections, reintroducing kickbacks to financial planners and removing the opt-in that stops fees eating into savings and investments?

Senator CORMANN (Western Australia—Minister for Finance) (14:01): I thank Senator Dastyari for that question. What we are winding back is the unnecessary and costly red tape, which does not make any difference to consumer protections but just pushes up the cost of advice. On this side, we want people saving for their retirement, people managing their retirement and people who are managing financial risks and seizing opportunities throughout their life to have the advantage of high-quality advice that they can trust and that is also affordable.

The senator mentioned the so-called opt-in requirements, which force clients to re-sign contracts with their advisers on a regular basis. After the Storm Financial collapse and so on, we had a parliamentary inquiry into Australian financial products and services. Out of more than 400 submissions to that inquiry, how many do you think recommended that bit of additional red tape? One. And it was from the Industry SuperFunds network. The inquiry, chaired by Mr Ripoll, was so convinced of that particular recommendation that they refused to adopt it. The Ripoll inquiry did not recommend the introduction of opt-in—that additional bit of red tape. Guess what? Because Minister Shorten, who was the Minister for Financial Services and Superannuation at the time, was so close to his friends in the union movement, because he was so committed to doing the bidding of the union movement, what did he do? He put it into his laws.
The reason we are making improvements to the Future of Financial Advice laws is that Labor's changes went too far, egged on by union dominated industry funds, and we are making sure we get the balance right for consumers with important consumer protections, and we are making sure that access to high-quality advice remains affordable. (Time expired)

Senator DASTYARI (New South Wales) (14:03): Mr President, I ask a supplementary question. What does the minister say to Timbercorp victims like Naomi Halpern, who joins us in the gallery today, who have had their savings stolen and, in some cases, even lost their homes because of the actions of a handful of financial planners? Why is the minister removing consumer protections that safeguard against investment schemes like Timbercorp?

Senator CORMANN (Western Australia—Minister for Finance) (14:03): Firstly, I empathise with anyone and everyone that is the victim of somebody who provides bad advice. All of us together, whether that is as policymakers or as industry participants, need to continue to work to lift professional, ethical and educational standards across the financial advice industry. A lot of that work has been happening.

I suspect that the events to which Senator Dastyari refers happened during the period of the previous government. What I am saying is that none of the changes that we are proposing to financial advice laws will in any way reduce consumer protection arrangements that would prevent a more effective regulatory arrangement being put in place. We are keeping the requirement for advisers to act in the best interests of their clients and we are keeping the ban on conflicted remuneration. What we are getting rid of is Labor's additional and unnecessary red tape, which was pushed on them by union dominated industry funds.

Senator DASTYARI (New South Wales) (14:04): Mr President, I ask a further supplementary question. Minister, why are the financial interests of a handful of dodgy financial advisers more important than protecting the savings of hardworking people like Naomi Halpern?

Senator CORMANN (Western Australia—Minister for Finance) (14:05): I completely reject the premise of that question. What we are focused on is the public interest. We are focused on making sure that consumers across Australia can have access to high-quality advice that they can trust and that is also affordable. As a result of the changes that Labor has introduced, the cost of advice has been going up and up and up. In Australia the cost of advice is already comparatively high because we have got too much red tape in place. It is a matter of balance. It is a matter of making sure that we have got important consumer protection arrangements in place in a way that is appropriately efficient so that people across Australia saving for their retirement, managing their retirement and managing financial risks through life can have access to high-quality advice which is also affordable. Your changes put access to advice beyond the reach of too many Australians who actually need it.

DISTINGUISHED VISITORS

The PRESIDENT (14:06): I draw to the attention of honourable senators the presence in the chamber of a parliamentary delegation from Uganda, led by the Hon. Wafula Phillip Oguttu MP. On behalf of all senators, I wish you a warm welcome to Australia and, in particular, to the Senate.

Honourable senators: Hear, hear!
QUESTIONS WITHOUT NOTICE

Asylum Seekers

**Senator KROGER** (Victoria—Chief Government Whip) (14:06): My question is to the Assistant Minister for Immigration and Border Protection, Senator Cash. Will the minister inform the Senate why it is important that the government disrupts the evil trade of people smuggling by removing the incentive for people to board leaky boats and attempt to enter Australia illegally?

*Opposition senators interjecting—*

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

**Senator CASH** (Western Australia—Assistant Minister for Immigration and Border Protection and Minister Assisting the Prime Minister for Women) (14:06): When you capitulate to the people smugglers you do exactly what those opposite did, and that is why we had the interjections coming to me before I stood up, saying, 'You want to talk about the boats.' Yes, we do, because we made a commitment to the Australian people that we would stop the boats, and that is exactly what we have done.

When you capitulate to the people smugglers you end up with the disaster that was the former Rudd and Gillard government's border protection policy. Let us remind ourselves again of that disaster: in excess of 50,000 people coming here illegally by boat and in excess of 1,000 people confirmed dead at sea. At the height of the Labor Party's policy failure in July 2013, there were 10,201 people held in detention and that included 1,992 children. Of course, there is the financial cost to the Australian taxpayer: in excess of $11.5 billion. If you want to talk about the budget, there is a figure that you do not want to talk about. In stopping the boats, we have managed to save the Australian taxpayer and to save the budget in excess of $2.5 billion in this portfolio. That is something that those on the other side in their dreams would never be able to do. As a result of 186 days since there was a successful people-smuggling venture to Australia, we are stopping the boats. This government has the resolve to do that and that is exactly what we are doing.

**Senator KROGER** (Victoria—Chief Government Whip) (14:08): Mr President, I ask a supplementary question. Can the minister advise the Senate what the coalition government is doing to address Labor's legacy case load of more than 30,000 asylum applications left unprocessed by the former government?

**Senator CASH** (Western Australia—Assistant Minister for Immigration and Border Protection and Minister Assisting the Prime Minister for Women) (14:09): Step 1 is you actually stop the problem. That is exactly what we have done by implementing Operation Sovereign Borders. Despite everything that the other side said could never be done, we have done it.

Step 2 is that you end up dealing with the legacy case load left by the former Rudd and Gillard Labor governments. Many in Australia do not know that approximately 30,000 people were dumped into the community by the former government and left to languish there with their claims not even being processed. That is right: they were dumped into the community by those on the other side. Labor and the Greens, in rejecting or disallowing the temporary protection visas that we brought in to deal with the legacy case load, have caused nothing...
more and nothing less than needless worry to those who just want their claim processed. (Time expired)

Senator KROGER (Victoria—Chief Government Whip) (14:10): Mr President, I ask a further supplementary question. Can the minister advise the Senate why the government will not yield to the demands of those advocating softer border protection policies, specifically in relation to the management of 30,000 onshore arrivals who are yet to have their claims assessed?

Senator Jacinta Collins: Only Michaelia could have written 'yield'.

Senator Wong: Only Michaelia could write that question.

Senator CASH (Western Australia—Assistant Minister for Immigration and Border Protection and Minister Assisting the Prime Minister for Women) (14:10): I will take the interjections that the Australian public cannot hear, 'Only Michaelia could write that question.' Well, guess what? Only those on this side can stop the boats. It is the resolve of this government. Despite what Labor and the Greens throw at us, it will not deter us.

Opposition senators interjecting—

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

Senator CASH: You resort to personal insults when you can no longer debate policy. Our record in relation to border protection—

Opposition senators interjecting—

The PRESIDENT: Senator Cash, resume your seat. I have asked Senator Cash to resume her seat. She is entitled to be heard in silence, senators on my left. Senator Cash, continue.

Senator CASH: You resort to personal insult when you cannot debate policy. Those on the other side are left with nothing more and nothing less than attacking us on this side personally. Guess what? We are big enough and we are ugly enough to take on board your attacks. We will not be deterred. (Time expired)

Honourable senators interjecting—

The PRESIDENT: Order! Senators on my right, it applies to both sides.

School Chaplains

Senator SINGH (Tasmania) (14:12): My question is to the Attorney-General, Senator Brandis. Does the Attorney-General stand by his statement that the decision in Williams v Commonwealth of Australia No. 2 has no implications for Commonwealth programs other than the National School Chaplaincy and Student Welfare Program?

Senator BRANDIS (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (14:13): Yes.

Senator SINGH (Tasmania) (14:13): I ask a supplementary question. Does the Attorney-General stand by his claim that it would be erroneous and ignorant to suggest that the case has no implications for Commonwealth programs other than the National School Chaplaincy and Student Welfare Program?

Senator BRANDIS (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (14:13): Yes, I do. I point out to Senator Singh that I was referring to a press release issued by the shadow
minister for finance, Mr Burke, who made some very wild claims about the meaning of the decision. The High Court was asked a broad question and a narrow question. It answered the narrow question, 'Was the school chaplaincy program invalid,' by saying that it was. It explicitly declared that it was not necessary to answer the broad question. The effect of the case was to affirm the decision of the High Court in the earlier Williams v Commonwealth of Australia No. 1 decision, which did have very significant potential consequences for a range of programs. But Williams No. 2, beyond striking down the chaplaincy program, took the law as stated in Williams No. 1 no further.

Senator SINGH (Tasmania) (14:14): Mr President, I ask a supplementary question. Given his smug assertion that there are no implications for other programs, can the Attorney-General now confirm all Commonwealth programs other than the National School Chaplaincy Program are supported by a constitutional head of power?

Senator BRANDIS (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (14:14): What I can say to Senator Singh is that when the Financial Framework Legislation Amendment Act was debated in the Senate in June 2012, I expressed the view that I did not think that it would satisfy the requirements set out by the High Court in Williams No. 1. I remain of that view, but the point of your question, Senator Singh, as I understand it is whether Williams No. 2 has a broader implication. It does not; it affirms the law as set out by Williams No. 1. My views about the consequences of Williams No. 1 remain.

Malaysia: Missing Aircraft

Senator EDWARDS (South Australia) (14:15): My question is to the Minister of Defence, Senator Johnston. Can the minister update the Senate on the search for the missing Malaysian airline flight MH 370?

Senator JOHNSTON (Western Australia—Minister for Defence) (14:16): I thank Senator Edwards for his interest in this very tragic and mysterious matter. As everyone will be aware, some 239 people were aboard Boeing 777 MH 370 when it disappeared on 8 March 2014 en route from Kuala Lumpur to Beijing. Australia has led the biggest search operation in history, but is yet to find any evidence of the missing flight MH 370. Tragically for the families of those on board, the search for that aircraft remains unresolved. On 28 April the Prime Minister announced that the search for missing MH 370 would move to a new intensified underwater phase. This phase will involve an intensified underwater search with side-scan sonar equipment towed behind ships. All the available data indicates the aircraft went down in a long but narrow arc of the Indian Ocean, measuring 700 kilometres by 80 kilometres, some 2000 kilometres to the west of the coast of Western Australia in water of a depth of up to 7000 metres.

I wish to inform the Senate that this new phase of the search commenced with the review and analysis of all data and information relating to the likely flight path of this aircraft together with information acquired in the course of the search to date. This work will advise on the most probable areas for an effective future search to continue. The comparison most commonly drawn in the search for MH 370 is the missing A 330 that crashed in the centre of the Atlantic Ocean, but the debris field for that aircraft was found within the first two days. I remind the Senate that at this point in time we have not found one single piece of debris that is relevant to the missing aircraft. With joint cooperation, over 4.6 million square kilometres
of ocean have been searched; 345 search sorties have been conducted by military aircraft for a total of over 2998 hours. Over 30 per cent of the military flights were made by the Royal Australian Air Force, based out of Pearce in Perth. Up to 19 ships have been used to cover the search areas during this period. As we enter the new phase—\(\text{Time expired}\)

**Senator EDWARDS** (South Australia) (14:18): Mr President, I ask a supplementary question. Further to that outline, could the minister advise the Senate on the level of international cooperation that has been—

**Senator Cameron interjecting**—

The PRESIDENT: Order!

Senator Edwards: This is an important international issue. Outrageous!

The PRESIDENT: Senator Edwards, just ask your question. Senator Edwards is entitled to be heard in silence.

Senator EDWARDS: Would the minister please outline the international cooperation that has been involved in the search for the missing Malaysian airline flight MH 370?

**Senator JOHNSTON** (Western Australia—Minister for Defence) (14:18): We are grateful to all of the countries who have offered their assets and people to assist in the search so far. Under international convention, Malaysia carries the overall responsibility for the search, and the Malaysian government has asked Australia to continue to provide all necessary assistance in the search for this aircraft. We owe this to the families of those travelling on board and the travelling public more broadly.

Malaysia, the United States of America, the United Kingdom, China, the Republic of Korea, Japan and New Zealand have all been involved in the search. They have all contributed the following equipment and assistance that have contributed to the number of flying hours I mentioned in my previous answer: one P3 Orion from New Zealand; two P8 Poseidons from the United States out of Japan; two Ilyushin Il-76s from the People's Liberation Army Air Force; two P3 Orions from the Japanese Self-Defense Force; and one Japanese Coastguard Gulfstream V and one P3 Orion; one C-130 Hercules from the Republic of Korea; three Hercules from Malaysia; eight aircraft from the Royal Australian Air Force—four P3 Orions, a Wedgetail, a King Air and a C-130. \(\text{Time expired}\)

**Senator EDWARDS** (South Australia) (14:20): Mr President, I ask a further supplementary question. Can the minister please explain to the Senate why this level of cooperation is of such importance to Australia and our surrounding regions?

**Senator JOHNSTON** (Western Australia—Minister for Defence) (14:20): Given the number of countries and the engagement those countries have had with us in the search for this aircraft, it underlines the importance of building deep and lasting links with our regional partners. We have invested heavily in this recovery program and will continue to do so in supporting the development of military capabilities across South-East Asia and the Pacific nations through our Defence Cooperation Program. We are an active supporter of the region's evolving security architecture. We believe that its continuing development strengthens the region's capacity to effectively deal with unforeseen crises, such as this.

The operations to locate this aircraft have also shown the benefit of greater inter-operability between our nations. Who would have believed that the United States, Japan and China would
School Chaplains

Senator WRIGHT (South Australia) (14:21): My question is to the Minister representing the Minister for Education regarding the High Court judgement in Williams v the Commonwealth (No. 2), which held that the National School Chaplaincy and Student Welfare Program to be invalid. The Commonwealth has chosen to waive the debt on program payments made to date including $37 million paid in advance to cover the next six months of the program for work not yet done. Why will the government not recover funds that have not yet been expended thereby effectively continuing to fund an illegal program?

Senator PAYNE (New South Wales—Minister for Human Services) (14:22): I thank Senator Wright for her question. As the senator said in her question—through the finance minister who has the power to do so under the Financial Management and Accountability Act—the Commonwealth's right to recover payments that have already been made under relevant funding agreements has been waived; however, I would advise the senator that this does not affect the fact that the program cannot be continued by the Commonwealth: no further payments will be made under the current program. The government will consider the High Court's decision closely in order to determine whether there are implications for other Commonwealth expenditure programs.

Senator Wright: I rise on a point of order—has the minister finished the answer?—because it did not address the question I asked, which is: why has the government made that choice?

The PRESIDENT: I cannot tell the minister how to answer the question. The minister has sat down after her answering your question.

Senator WRIGHT (South Australia) (14:23): Mr President, I have a supplementary question: the High Court decision means that the chaplaincy program can no longer be funded or administered by the federal government. It is finished. But this government decision means that chaplains and welfare workers will still be working in schools until the end of the year without any administrative oversight by the education department—including guidelines, codes of conduct or complaints procedures. How will the Australian government ensure the safety and wellbeing of students for these six months?

Senator PAYNE (New South Wales—Minister for Human Services) (14:23): In response to Senator Wright, I would advise the senator that the systems which were in place before the High Court decision have not disappeared into thin air. I should imagine that Senator Wright has not considered that in her question. Of course, the day-to-day operation of chaplains within the school system is the responsibility of state and territory governments—as the day-to-day operation of the schools is their responsibility—and the continued operation to the end of the year will be a matter for them.

Senator WRIGHT (South Australia) (14:24): Mr President, I ask a further supplementary question: considering the Australian government's supposed crackdown on the age of entitlement, and its cruel cuts to Newstart recipients, single parents, and pensioners, why is...
the government so intent on waiving debts to allow a further $37 million to be spent on an illegal program?

**Senator PAYNE** (New South Wales—Minister for Human Services) (14:24): I think Senator Wright's use of the word illegal should be perhaps be reconsidered in this regard. I have seen some tenuous links in my life, but the ones that Senator Wright has adopted in that question would probably beat them all. The senator's question has been answered by my previous responses. I have no more to add.

**Textile, Clothing and Footwear Industry**

**Senator BERNARDI** (South Australia) (14:25): My question is to the Minister for Employment, Senator Abetz. Has the minister seen reports of an attempt by the Textile Clothing & Footwear Union to obtain money from employers in the fashion industry by demanding $30,000 to settle legal action? What is the government's attitude to this practice?

**Senator ABETZ** (Tasmania—Leader of the Government in the Senate, Minister Assisting the Prime Minister for the Public Service and Minister for Employment) (14:25): I can confirm to Senator Bernardi that I am aware of the reports to which he refers regarding attempts by the textile union to seek money from 23 employers. Their tactic is to issue legal proceedings against the employer. The union then invites the employer to settle these proceedings in return for the employer paying the union $30,000, and that is for all 23 of the employers—talk about one size fits all!—to settle all the claims in one go, each one just pays $30,000. The message from the union is very clear: pay us $30,000 in go-away money, and the legal action will go away.

I am in receipt of a letter which sets out the terms of the offer and it states: 'if you agree to the proposal, the union is prepared to settle the claim against you and the matter will not proceed further.' And attached to the letter is a deed of settlement which includes the following terms: 'the employer'—and listen to this carefully—'must provide to the union a list of all names, street addresses and phone numbers of persons that the employer contracts with to perform work'—talk about a ham-fisted recruitment drive, if ever there was one. And then the next item includes this: 'the employer will arrange a meeting between up to three union representatives and all employees or home-based workers engaged by the employer to allow the union to explain the settlement that the employer has signed'—once again, a barefaced recruitment drive. This is at a time when the union has run for two consecutive years at a financial loss. I wonder what the motivation might be, Mr President.

**Senator BERNARDI** (South Australia) (14:27): Mr President, I thank the minister for shedding light on this grubby business, and I ask a supplementary question: Minister, are you able to inform the Senate who would actually get this money, were employers to succumb to this rort? Would it be fashion industry outworkers, or the textile workers union itself?

**Senator ABETZ** (Tasmania—Leader of the Government in the Senate, Minister Assisting the Prime Minister for the Public Service and Minister for Employment) (14:28): I can inform Senator Bernardi that the letter from Slater & Gordon Lawyers, the union's lawyers, makes no mention of any of this $30,000 going to workers. Instead, it states that the money will go to the union for the union's activities. The purported settlement money does not go to needy outworkers, nor to compensation for anyone who may be disadvantaged by award breaches; the money will go towards subsidising the union and its activities. If all of these
employers agreed to the demands, this would provide a very cool $600,000 to $700,000 in additional revenue for the union—at a time when it is running a loss. This appears to be a union simply shaking down employers to boost its cash flow and to provide an additional income stream.

Senator BERNARDI (South Australia) (14:29): Mr President, I ask a further supplementary question: what is the government's position towards employers who receive threats from lawyers acting for the Textile Clothing & Footwear Union?

Honourable senators interjecting—

The PRESIDENT: Order!

Senator ABETZ (Tasmania—Leader of the Government in the Senate, Minister Assisting the Prime Minister for the Public Service and Minister for Employment) (14:29): Employers who have received the letter from the union may be being seriously misled in relation to the effect of their paying the $30,000 demanded by the union. Accordingly, I suggest that they seek their own legal advice. The union letter demands that the employer pay the money—$30,000—as a supposed payment in lieu of penalty. However, it could well be that the Fair Work Ombudsman or indeed individual workers can still take a claim and the court impose a penalty, and therefore there is very real concern about the probity and robustness of the legal letter provided by Slater & Gordon to the 23 employers. I simply suggest to the 23 employers confronted with this standard letter that they seek their own legal advice to ensure that no money is extorted out of them.

Middle East

Senator WONG (South Australia—Leader of the Opposition in the Senate) (14:30): My question is to the minister representing the Minister for Foreign Affairs, Senator Brandis. I refer to the Council of Foreign Ministers of the Organisation of Islamic Cooperation, which met in Jeddah on 18 and 19 June and at which Australian diplomatic representatives were present. Did the council note recent comments by Senator Brandis on the Middle East, call on the Australian government to respect its commitments under international law and ask member states to respond by taking necessary measures against Australia?

Senator BRANDIS (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (14:31): I will take the question on notice.

Senator WONG (South Australia—Leader of the Opposition in the Senate) (14:31): Mr President, I ask a supplementary question. Could the necessary measures urged by the Council of Foreign Ministers of the Organisation of Islamic Cooperation include trade sanctions? How much will Senator Brandis's intellectual arrogance cost Australian farmers?

Senator BRANDIS (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (14:32): I think the question poses a hypothetical proposition. There is no evidence that that hypothesis is the reality, and therefore I do not think I can assist the senator any further.

Senator WONG (South Australia—Leader of the Opposition in the Senate) (14:33): Mr President, I ask a further supplementary question. Can the minister confirm that his newfound and unprecedented reticence to speak is as a result of the Minister for Foreign Affairs having gagged him from making further comments on the Middle East and other matters?
Senator BRANDIS (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (14:33): No. In fact, when I made a statement at Senate estimates on 5 June the statement I made was authorised by the foreign minister and is completely consistent with what the foreign minister has said before and since on the matter.

Veterans

Senator BOSWELL (Queensland) (14:34): My question is to the Minister for Veterans' Affairs. Can the minister advise the Senate what the government is doing to improve the understanding of the needs of recent veterans?

Senator RONALDSON (Victoria—Minister for Veterans' Affairs, Minister Assisting the Prime Minister for the Centenary of ANZAC and Special Minister of State) (14:34): I thank Senator Boswell for that question. As his long and distinguished Senate career draws to an end, I would like on behalf of all Australia's veterans to thank Senator Boswell for his longstanding interests in their concerns. I am pleased to get another question from our side in relation to veterans' affairs. This is the second one in five sitting days. I note that there has not been a question from the opposition since 27 March this year—85 days and 33 Labor questions, not one in relation to veterans' affairs, which shows exactly where their priorities lie.

At the last election, in our policy—and we were the only major party to have a policy; the Australian Labor Party did not—we made it quite clear that the mental health challenges of veterans and their families would be part of our four-pillar policy. And since coming to government we have indeed started implementing those programs. On 11 June in Adelaide I announced the largest and most comprehensive study into the needs of contemporary veterans and their families ever undertaken. The Transition and Wellbeing Research Programme is a $5 million investment by the Department of Veterans' Affairs and the Department of Defence towards better understanding of the issues confronting contemporary veterans, those transitioning from Defence to civilian life, and the families who support them. With the increased operational deployment of the ADF over more than a decade and the draw-down of Defence Force operations in Afghanistan more recently, we need to understand the physical, mental and social health needs of both serving and ex-serving personnel and their families. The Transitional Wellbeing Research Programme has three parts. The first, the Mental Health and Wellbeing Transition Study—(Time expired)

Senator BOSWELL (Queensland) (14:36): Mr President, I ask a supplementary question. Can the minister advise the Senate of who will conduct the studies for the Transition and Wellbeing Research Programme? And when will they report?

Senator RONALDSON (Victoria—Minister for Veterans' Affairs, Minister Assisting the Prime Minister for the Centenary of ANZAC and Special Minister of State) (14:36): With your leave, Mr President, I will just finish off the tail end of that important first question. The Mental Health and Wellbeing Transition Study will target both serving and ex-serving personnel to determine their mental, physical and social health status. The second study—the Impact of Combat Study—will comprehensively follow up on the mental, physical and neurocognitive health of personnel deployed to the Middle East area of operations between 2010 and 2012. The third study—the Family and Wellbeing Study—being conducted by the
Australian Institute of Family Studies will investigate the impact of military service on the health and wellbeing of the families of serving and ex-serving personnel.

My department has contracted the Centre for Traumatic Stress Studies at the University of Adelaide to lead the Transition and Wellbeing Research Programme. It will be very ably led by Dr Miranda Van Hooff and it will include national experts on veteran mental, physical and social health from the University of Melbourne, the University of New South Wales, Monash University—(Time expired)

Senator BOSWELL (Queensland) (14:38): Mr President, I have a further supplementary question. Can the minister explain to the Senate how this new program integrates with the government's plan for veterans and their families?

Senator RONALDSON (Victoria—Minister for Veterans' Affairs, Minister Assisting the Prime Minister for the Centenary of ANZAC and Special Minister of State) (14:38): The others involved in the research are the Young and Well Cooperative Research Centre and the Australian Institute of Family Studies. The Australian Institute of Family Studies will take the lead on the Family and Wellbeing Study.

I thank Senator Boswell for his final supplementary question. We view veterans' mental health as absolutely fundamental to where this nation is heading. We believe that early intervention is the key to helping these young men and women and their families. The Australian government is currently spending $166 million per annum, uncapped, on the mental health needs of our serving men and women and ex-serving men and women. Quite frankly, this nation cannot afford to repeat the mistakes of the past. What was done to those men returning from Vietnam so long ago now this nation simply cannot do to the young men and women returning from recent conflicts. We are determined to address their needs.

Racial Discrimination Act 1975

Senator FURNER (Queensland) (14:39): My question is to the Attorney-General, Senator Brandis. I refer to the Attorney-General's attempt to water down protections against hate speech in the Racial Discrimination Act. Is the minister aware of comments by Mr Robert Goot, President of the Executive Council of Australian Jewry, that:

This legislation gives the green light to unleashing racial hate speech in Australia, no matter how unreasonable and lacking in good faith.

Is Mr Goot right?

Senator BRANDIS (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (14:39): Senator Furner, I am aware of a variety of views in the community, and the government are currently considering those. We went to the last election promising to reform section 18C of the Racial Discrimination Act because we were of the view that, as currently written, it does not serve to effectively protect people from racial vilification, with which it does not even deal—were you aware of that, Senator Furner?—and, the extent to which it does seek to address the issue, it does so by unreasonably using the technique of political censorship, which we think in a free society should never be used.

Senator FURNER (Queensland) (14:40): Mr President, I ask a supplementary question. Is the minister aware of a submission by the Muslim Legal Network into the proposed changes to 18C which states:
These reforms offer promoters of hatred a form of validation to enable them to recruit more followers. Is the Muslim Legal Network right?

Senator BRANDIS (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (14:41): I am considering at the moment all of the submissions that have been received by the government—some 5½ thousand of them—in response to the exposure draft that I published at the beginning of April. I do not agree with the proposition which some, but not others assert: that section 18C in its current form serves its legislative purpose well.

Senator FURNER (Queensland) (14:41): Mr President, I ask a further supplementary question. Is the minister aware of the 48 councils from across the country who have signed up to the Project 18C movement to stop his amendments to water down the Racial Discrimination Act? Are these 48 local councils right?

Senator BRANDIS (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (14:42): The answer to the first part of the question is, yes, I am aware of the view expressed by those councils. The answer to the second part of the question is, no, I do not agree. I do not agree because what the government is proposing to do is repair section 18C by ensuring that it does effectively protect against racial vilification, which the section in its current form does not, but does not adopt the technique of political censorship, which in a free country should never be allowed.

Higher Education

Senator RUSTON (South Australia) (14:42): My question is to the Minister for Human Services, Senator Payne, representing the Minister for Education. Can the minister explain how the government's higher education reform package spreads opportunity to more Australian students?

Senator PAYNE (New South Wales—Minister for Human Services) (14:43): I thank Senator Ruston very much for her question. I am very happy to talk about the government's higher education reform package. It is a fair and balanced package which is going to spread opportunity for students and ensure that Australia is not left behind in global competition. We believe in the transformational power of higher education. That is why we will be providing $37 billion in funding to higher education institutions over the next four financial years. For the first time ever, all Australian undergraduate students in registered higher education institutions will be supported for all accredited courses, from higher education diplomas, advanced diplomas, associate degrees to bachelor degrees, whether they choose to study for those qualifications at universities, TAFEs or private colleges. That means that over 80,000 additional students a year will be supported by the Commonwealth by 2018 as a result of these reforms. That is what spreading opportunity is all about.

Those reforms are going to include support for students in pathway programs which prepare them for university study. They provide effective support for students who might otherwise not be able to get to university but often do better than students who might not have come through the pathway program. Students supported through those pathway programs often come from low SES backgrounds, and presently many of those students either cannot get a place or have to pay more for one than for Commonwealth-supported undergraduate
places. This higher education reform package will address this issue. We are providing real opportunities for universities and other higher education providers across the diversity of the spectrum throughout Australia.

Senator RUSTON (South Australia) (14:45): Mr President, I ask a supplementary question. Can the minister further advise the Senate of other opportunities the higher education package gives students?

Senator PAYNE (New South Wales—Minister for Human Services) (14:45): We are also providing uncapped support for all Australian undergraduates wherever they choose to study, a strong and sustainable student loan program which treats all students fairly, and also new Commonwealth scholarships to assist with living costs. Alongside those higher education reforms we are also introducing HECS-style loans for apprentices. The Commonwealth scholarships will be funded by $1 in every $5 of additional revenue that universities and other higher education institutions earn as a result of the deregulation of the higher education system—and they will support disadvantaged students, students from regional Australia, Indigenous students and a range of other students who are not currently able to access higher education institutions. The reform package will also provide HELP loans to all Australian higher education students on equal terms. We are going to abolish loan fees. *(Time expired)*

Senator RUSTON (South Australia) (14:46): Mr President, I ask a further supplementary question. Can the minister advise the Senate how the government's higher education reform package will help students in my home state of South Australia?

Senator PAYNE (New South Wales—Minister for Human Services) (14:46): Part of the response to Senator Ruston's second supplementary question also finishes what I was saying about the HELP loan arrangements. We will see the abolition of the loan fees of 25 per cent for FEE-HELP loans and 20 per cent for VET FEE-HELP. That will reduce the cost for thousands and thousands of Australian students. It is interesting to know that South Australian students and South Australian universities and other higher education providers will benefit from the higher education reform package. In fact, the South Australian higher education minister, Gail Gago, in the Australian Financial Review last week, welcomed the federal government's plan to fund sub-bachelor higher education courses such as diplomas. She said:

The extension of funding of sub-bachelor programs to TAFE SA and other registered higher education providers provides an opportunity for TAFE SA to access Commonwealth funding for its diploma and advanced diploma courses. Recognition and funding of these sub-bachelor programs delivered by TAFE SA is welcome.

*(Time expired)*

**Future of Financial Advice**

Senator TILLEM (Victoria) (14:47): My question is to the Acting Assistant Treasurer, Senator Cormann. I refer to the Acting Assistant Treasurer's recent announcement on future of financial advice requirements. Does the minister's removal of the catch-all provision for advisers to act in the best interests of their clients combined with the proposal to allow for agreement on the scope of financial advice mean that advisers could get a client to agree to a scope of advice which a reasonable adviser would know is not in their client's best interests?

Senator CORMANN (Western Australia—Minister for Finance) (14:48): First, the question is wrong. The government is not removing the requirement for an adviser to act in
the best interests of their client. I refer Senator Tillem to subsection 961B(1) of the Corporations Act, which includes the explicit requirement that an adviser must act in the best interests of their client. That remains unchanged—we are not touching it; we are not amending it. The senator then refers to a catch-all provision, which does not relate to the requirement to act in the best interests of the client—it is part of a safe harbour provision Labor added to the Corporations Act which a financial adviser may want to rely on to prove that they have acted in the best interests of their client. There are six specific steps in that test, as well as a final, as the senator described it, catch-all provision that an adviser should take all other reasonable steps beyond the six very comprehensive steps.

That only goes to the test as to whether an adviser has acted in the best interests of their client; it does not go to the requirement to act in the best interests of their client. As the senator will be aware, the Senate inquiry asked lots of questions in relation to this very technical aspect of the Corporations Act, and when questions were asked, including of the biggest critics of our proposed changes to financial advice laws, as to what other reasonable step a financial adviser should be required to take in order to prove they have acted in the best interests of their client, nobody was able to propose such a reasonable step to us. That is why we say the six specific steps that are in the safe harbour provision, introduced into the Corporations Act by Labor, are sufficient, as a safe harbour provision, but none of that takes away in any way, shape or form the requirement for financial advisers to act in the best interests of their client.

Senator TILLEM (Victoria) (14:50): Mr President, I wish to ask a supplementary question. Minister, is it not true that removing the opt-in provisions of FoFA simply means indefinite ongoing fees that act like trailing commissions? Does the minister agree with Industry Super, who estimate that under this provision consumers could lose $240 million?

Senator CORMANN (Western Australia—Minister for Finance) (14:51): No, that is not true. As Senator Tillem suggested in his question, the only reason Labor imposed that bit of red tape into the legislation was that the industry super funds movement wanted it. The Ripoll inquiry, which investigated the collapse of Storm Financial, did not recommend it, and out of the more than 400 submissions only one submission asked for it, and that was the submission from Industry Super. Of course Mr Shorten, who was the minister at the time, cannot have been very confident that the cost-benefit equation of that bit of red tape stacked up, because he refused to comply with his own government's requirements when it came to regulatory impact assessments. Minister Wong was supposed to be the guardian, through the Office of Best Practice Regulation, of ensuring that ministers across government go through proper processes to assess that the cost-benefit equation stacks up. Bill Shorten did not do it because he knew he was just imposing additional costs without additional benefits.

Senator TILLEM (Victoria) (14:52): I have an additional supplementary question. I will attempt in vain to get an answer from the minister.

The PRESIDENT: Just ask the question.

Senator TILLEM: Why is the minister continuing to support the interests of a handful of dodgy financial advisers while ignoring the voices and the needs of the many Australians who have been their victims. A bit of honesty!

The PRESIDENT: Order! When there is silence on my left.
Senator CORMANN (Western Australia—Minister for Finance) (14:52): That is not what the government is doing. Unlike the Labor Party, which was acting to pursue the vested commercial interests of one particular segment in the financial services market, we are actually focused on the public interest. We are focused on making sure that people across Australia who are saving for their retirement and are wanting to manage their retirement can have access to high-quality advice that they can trust and which is also affordable. You are just trying to help your union mates who are desperately keen to get themselves into a better competitive position in the financial services market.

Australian Broadcasting Corporation and Special Broadcasting Service

Senator SESELJA (Australian Capital Territory) (14:53): My question is to the Assistant Minister for Social Services, representing the Minister for Communications, Senator Fifield. Can the minister advise the Senate why it is important that the ABC and SBS run their businesses in a cost-effective manner and ensure that taxpayers get value for their investment?

Senator FIFIELD (Victoria—Manager of Government Business in the Senate and Assistant Minister for Social Services) (14:54): Can I thank Senator Seselja for his question. It is an important question, and it is an area that only this side of the chamber has an interest in. The ABC and SBS receive yearly—

Honourable senators interjecting—

The PRESIDENT: Senator, resume your seat. When there is silence, we will proceed.

Senator FIFIELD: The ABC and SBS receive nearly $1.4 billion a year in funding from the Australian government, and I think that all of us on this side of the chamber would agree that one of the first and primary jobs of government is to make sure that taxpayers' dollars are well and efficiently expended. This government knows that there is the capacity at the ABC for savings to be made without reducing programming. Any suggestion at all that popular programs or services are at risk because of budget savings is completely absurd, as are any suggestions that inefficiency should be left unchecked. The previous minister, as is well known, did nothing to improve the efficiency of the public broadcasters. He did nothing to address the accelerating structural decline of Australia Post, and he did nothing to affect the unfolding financial disaster that is NBN Co. Senator Seselja, I know that the word 'neglect' comes to your mind as I say those words. In contrast, this government is not going to sit idly by. A working draft of the ABC and SBS Efficiency Study has been handed to both public broadcasters to assist them in managing their businesses more efficiently, and I know that Minister Turnbull looks forward very much to working with them over the coming months to achieve this goal.

Senator SESELJA (Australian Capital Territory) (14:56): Can the minister advise the Senate as to what steps the government has taken to assist the ABC and SBS to improve efficiency?

Senator FIFIELD (Victoria—Manager of Government Business in the Senate and Assistant Minister for Social Services) (14:56): I think we all know that a commercial broadcaster will always do its best to reduce costs without affecting its investment in programming, particularly popular programming. On the other hand, the ABC's revenues are not a function of its ratings or performance, but of its ability to persuade the government of the day. The easiest way to cut costs is to cut programming, rather than to tackle out-of-date
business and administrative practices. That is why this government commissioned the efficiency study—to assist the ABC in making the tough decisions which will save money by reducing waste. The purpose of the efficiency study is to assist the ABC in identifying inefficient administration, so that savings can be made without affecting programming.

**Senator SESELJA** (Australian Capital Territory) (14:57): I have a supplementary question, Mr President. Is the minister aware of any unexpected support for improving the efficiency of the ABC and SBS?

**Senator FIFIELD** (Victoria—Manager of Government Business in the Senate and Assistant Minister for Social Services) (14:57): We all know that, in the broad, the Australian Labor Party has very little interest in ensuring that government agencies are run efficiently, so I was absolutely delighted to see that the member for Blaxland agrees with the government on this point. On Sky recently, the member for Blaxland said he believed there was some value in an efficiency drive by the broadcaster, and he said: Any organisation can be more efficient, and I am sure there are things that are happening in the ABC and SBS where money could be better spent elsewhere.

I think this is one small step for caucus but one giant leap for the Australian Labor Party, courtesy of the member for Blaxland. I can assure Senator Seselja and colleagues that the government is confident that efficiencies can be made without impacting on programming.

*(Time expired)*

**Trade in Services Agreement**

**Senator WONG** (South Australia—Leader of the Opposition in the Senate) (14:58): My question is to the minister representing the Treasurer, Senator Cormann. I refer to reports of leaked text of the Financial Services Annex to the Trade in Services Agreement, which the government is negotiating with 50 countries, covering around two-thirds of world trade and services. The text provides that parties to the agreement will allow financial service companies from other countries to establish or expand their operations including ‘by taking over existing domestic financial services companies.’ Is the government considering changing the four pillars policy on banking takeovers, which supports competition in the Australian banking industry?

**Senator CORMANN** (Western Australia—Minister for Finance) (14:59): I will take that question on notice.

*Honourable senators interjecting—*

**The PRESIDENT:** Order!

**Senator WONG** (South Australia—Leader of the Opposition in the Senate) (14:59): Mr President, I ask a supplementary question. For the benefit of the minister, this was on the front page of *The Sydney Morning Herald* on Friday.

*Senator Abetz interjecting—*

**Senator WONG:** I understand from the Leader of the Government in the Senate that you do not have a brief because you do not read Fairfax. I again refer to the provisions of the draft agreement dealing with banking and financial services. Given that negotiations resumed this week in Geneva, will the government assure the public that any commitments it makes will carve out the four pillars policy?
Senator CORMANN (Western Australia—Minister for Finance) (15:00): Just for the record: I am a regular reader of Fairfax. I have already taken the substantive part of the question on notice.

Senator WONG (South Australia—Leader of the Opposition in the Senate) (15:00): Mr President, I ask a further supplementary question. I note the minister's refusal to give an undertaking to protect the four pillars policy. Is the minister aware that eroding competition in the banking industry will put upward pressure on interest rates? Has the government's budget of broken promises not already hit low- and middle-income earners hard enough without the government now moving to restrict competition in the banking sector?

Senator CORMANN (Western Australia—Minister for Finance) (15:01): I do not accept, in any way, shape or form, the interpretation that Senator Wong has attempted to draw from my taking the questions she has asked on notice. I will, as I have previously indicated, take the question on notice and provide the senator with an answer at the earliest opportunity.

Senator Abetz: Mr President, I ask that further questions be placed on notice.

QUESTIONS WITHOUT NOTICE: TAKE NOTE OF ANSWERS

Middle East

School Chaplains

Racial Discrimination Act 1975

Senator WONG (South Australia—Leader of the Opposition in the Senate) (15:01): I move:

That the Senate take note of the answers given by the Attorney-General (Senator Brandis) to questions without notice asked by Opposition senators today.

Questions today dealt with three of the Attorney-General's most recent blunders. There was Senator Brandis's notorious foray into foreign policy, where he suddenly invented new government policy on the Israel-Palestine conflict—which has jeopardised Australia's interests in this strategically sensitive region of the Middle East. There was also his rush to judgement on the impact of the High Court decision in the Williams No. 2 case, where there was no need for the Solicitor-General to provide advice—because Senator Brandis QC was on the case, delivering his verdict on the judgement before the ink was dry. Finally, there was his greatest triumph of all, where this cabinet minister has succeeded in uniting Australians across the political divide, uniting Australians from all religious, ethnic, political and social backgrounds against his plans to remove legal protection against speech that offends, insults or humiliates on the basis of race.

In fact, this Attorney-General has a rare distinction. He is one of the few cabinet ministers who has single-handedly created an enormous grassroots movement against him and his own government. It is quite a political feat. Those on the other side must constantly be asking rhetorically, 'I wonder who it is that George has offended this week?'

Senator Brandis's responses to these questions today were—in part—what we have come to expect. What we generally expect from Senator Brandis is smug and self-important rhetoric and deliberate obfuscation—and we know we always get pomposity. We know that George is always pompous. But interestingly, and I will come back to this, we also saw a new side of George—
The DEPUTY PRESIDENT: Senator Wong, you should refer to senators by their correct title.

Senator WONG: I apologise, Mr Deputy President.

The PRESIDENT: Thank you.

Senator WONG: We saw a new side of Senator Brandis, who has magically discovered the benefits of reticence. He is all of a sudden—a man who generally you cannot shut up—talking very little. One can surmise why that is. You need only look at some of the commentary about what Minister Bishop has had to promise and implement with respect to Senator Brandis's injudicious comments in Senate estimates.

On the ABC website this morning I was interested to read some character assessments of Senator Brandis from his own colleagues. They covered a range of areas, including: 'I think Senator Brandis would not know a live animal if he fell over one,' and various other things. One can surmise where that came from. But the most interesting character description was one of his own Liberal colleagues describing him to the ABC this morning as 'intellectually arrogant'. I do not fully agree with that character assessment. 'Arrogant'—true; that goes without saying. But 'intellectual'? I do not really think so. Senator Brandis might have installed a $15,000 taxpayer funded wall-to-ceiling bookcase in his office—complete with stepladder—not once but twice, but that does not make him an intellectual. He is meant to be the first law officer of the land, not an assistant law librarian.

Would a true intellectual defend the Racial Discrimination Act amendments that he was putting forward by arguing:

People do have a right to be bigots, you know.

Is that the response of a true intellectual? Would a true intellectual take his riding orders on the Racial Discrimination Act from a single newspaper columnist and ignore every community organisation in the land? Would a true intellectual rush so ignorantly into foreign policy by claiming that no Australian government has ever accepted the term 'occupied' in relation to Palestinian territories? Senator Brandis's last blunder has triggered a rolling foreign policy fiasco for the government and has damaged Australia's interests. This is not the act of an intellectual. It is the act of someone who is reckless and arrogant.

Senator Brandis is meant to be the first law officer of the land, not a freelance foreign minister. So it is no wonder that the actual Minister for Foreign Affairs has instructed the Attorney-General to stick to his day job. The position of Attorney-General is an important one in our system of government. It is a position which requires integrity, intelligence and sound judgement. It is not a position for someone who acts like he is in student politics. It is not a position for someone who has been described as a bull who brings his own china shop. It is certainly not a position for someone who displays the arrogance and poor judgement—

(Time expired)

Senator BACK (Western Australia—Second Deputy Government Whip in the Senate) (15:07): Don't you have to feel sorry for them? As I sat here in question time I was reminded of a mob of bleating poddy calves. I was reminded of a yard full of orphaned lambs, as they struggled and bleated and carried on. It is amazing that, with references to animals, only now did Senator Wong talk about bulls. Senator Cameron and Senator Wong led this parade of 'what about the budget', as we asked intelligent questions and got intelligent answers.
Today, six opposition senators got an opportunity to ask a question. You would have thought they might have asked one on the budget. Did any of the six do that? Only in the final supplementary question from the Leader of the Opposition in the Senate, Senator Wong, did they manage to get in a little bit of a question about the four-pillars policy, to the Minister for Finance, Senator Cormann. We had Senator Dastyari and Senator Tillem going on about FoFA and Senator Sing asking the Attorney-General about Williams and chaplaincy. We had Senator Wong about the Organization of Islamic Cooperation. We had Senator Furner about 18C. We then had Senator Tillem having a crack at FoFA. And because time allowed we then had Senator Wong.

So here we are in question time, and with the budget out there the Labor Party would love to be out there saying Australians hate the budget, they hate the higher education elements, they do not like the health elements and they do not seem to like the seniors policy. Where were the questions, Senator Wong, Senator Furner and Senator Cameron? Even Senator Conroy managed to get in on the animal analogy when he leapt up and the funniest thing he could say was that Senator Fifield was attempting to get rid of Peppa Pig, a program that we know costs the Australian taxpayer a couple of hundred thousand dollars a year, through the ABC.

Let me stay with the animal analogy for a few minutes, because Senator Wong was criticising the Attorney-General on what she was saying was an attack on Australia's agriculture, particularly Australia's exports of live animals. I would have thought that if there was one topic the Labor Party wanted to stay away from in this place it might be exports of live animals, when we reflect on the events of 8 June 2011, when they simply cut Indonesia off at its knees, and when they denied 69 million low-socioeconomic villagers in Indonesia the opportunity to get animal protein. Forget for a moment what they did to Australian producers and all those who support them.

I tell you that the full story of the conspiracies that went on has not yet been told in this place. I hasten to say that I do not believe that the Prime Minister at the time, Ms Gillard, nor the agriculture minister at the time were part of a conspiracy, but there was one, and they played into the hands of those conspirators. I am referring to the very countries in the Middle East that Senator Wong referred to in relation to Senator Brandis's apparent comments—countries that have long supported our exporters of both live animals and meat. Were they upset by some of those words? I remind the chamber of the answers given by Senator Brandis to the questions asked in Senate estimates. His statement was entirely consistent with that of the foreign minister.

But I am fairly close to the industry, as you know. Was there some concern? Yes. Was it addressed? Yes. Do we still have the confidence of those markets? Yes, we do. It was the actions of the then Labor government that caused all of the problems we see in the Middle East now—the fact that we do not have trade with Saudi Arabia, the fact that we can only now re-open trade to Egypt, and the fact that we have only just announced the re-opening of trade to Iran. Let us be very sure about who put all of that trade at risk. It was not the coalition or Senator Brandis. (Time expired)
Senator SINGH (Tasmania) (15:12): As the Leader of the Opposition in the Senate, my colleague Senator Wong, outlined, it has not been a good nine months for the Attorney-General, Senator Brandis. The three blunders that have been highlighted today through questioning by the opposition make that very clear. It has not been a good time at all. Yet this reckless, arrogant attempt by Senator Brandis to meddle in other ministers' portfolios, and to meddle in his own portfolio and not have any success, continues to go from bad to worse. He would try to make the public and us believe that everything is fine, that the remarks he has made are supported. We know clearly that they are not supported, and now he is finding himself in the position of having to backtrack on almost every single blunder he has made, whether it be in relation to trying to repeal or change, or whatever it is he is trying to do, sections 18C and 18D of the Racial Discrimination Act, or whether it be in relation to his comments regarding the Williams No. 2 case, where he regarded it as erroneous and ignorant to suggest that case had implications for Commonwealth programs other than the National School Chaplaincy and Student Welfare Program, or whether it be his meddling now in Minister Julie Bishop's portfolio in relation to his comments regarding East Jerusalem.

Just last week we saw the head of the Palestinian delegation to Australia, Mr Izzat Abdulhadi, who relayed to the ABC that the meeting they had with Minister Bishop did not resolve the confusion. That is why the question was put to Senator Brandis again today. It was to give him yet another opportunity to explain what he was on about during Senate estimates when he made his remarks. On one hand we have Minister Bishop making it very clear that the government's position has not changed, that the government supports UN Security Council Resolution 242 and various other UN resolutions. But then all of those resolutions, as we know, do use the term 'occupied'. So is Senator Brandis out of step with Minister Bishop? What is going on in the government when it comes to this? What clearly seems to be going on is that those in the executive are having to gag Senator Brandis for his remarks. Indeed, he has made quite a blunder that now has affected our trade relations with the Arab nations.

And it seems that Senator Brandis is losing more and more support by the day when it comes to other areas within his own portfolio. I refer, of course, to the Racial Discrimination Act. The question clearly put by Senator Furner was about Project 18C and the rise of local government. Local government, of course, is the level of government that is at the grassroots, the coalface, of the community. It has seen the outpouring of condemnation for the changes that Senator Brandis wants to put forward—or is proposing or whatever it may be. Local governments do not want the change. A number of these local government councils are in Liberal-held electorates. When will this government listen to the people? When will it start to recognise that there is no support for Senator Brandis's changes? I mean, some of Senator Brandis's own backbench are willing to cross the floor on the proposed changes that he has out there for comment. And there are some 5,500 submissions. Is he just going to ignore them? We know he will not release them, because he does not want us to be made aware of the outcry of condemnation for the changes that he is proposing to put in place. He is a libertarian, he believes in free speech, but he will not release those submissions. We have not had any legislation brought forward, clearly because Senator Brandis does not have the support of the executive and the backbench. It has been nearly six months now, and still there is no legislation. It shows clearly that Senator Brandis is out of touch not only with the Australian community but with his own Liberal Party. (Time expired)
Senator KROGER (Victoria—Chief Government Whip) (15:17): What we have seen today is a dreadful deterioration and disintegration of what the Senate is all about. Those on the opposite side are playing the man. When they were in government and we were strongly prosecuting the case against the shambolic policies that they were introducing—their policies on the run—we were accused of playing the man or, in the case of former Prime Minister Gillard, playing the woman. And how they cried! They cried foul because they were suggesting that we were playing the woman, when in actual fact we were playing the policy. We were against the policy of the day that they were creating and dreaming up overnight on the run. I have to say what an absolute hypocrite the leader on the other side of this chamber was to come in here today and play the man. I think it is a disgrace and damning of—

Senator Furner: Mr President, on a point of order: we know full well that the use of that language towards a person in this chamber is unallowable and should be withdrawn.

The PRESIDENT: Senator Kroger, it would assist if you did withdraw.

Senator KROGER: Mr Deputy President, I take the advice. But I do find it absolutely disgraceful. During estimates and over the last few months, the Prime Minister has been engaging at the very highest levels of office in a number of countries. And what did we see during that time? In my six years here in the Senate, I have never witnessed any behaviour like it. When the Prime Minister of Australia was visiting and engaging with presidents and prime ministers of different countries, we saw disgraceful criticism of him in order to diminish his credibility and his integrity. Whether it be former Foreign Minister Carr or former Prime Ministers Gillard or Rudd, at no stage did the coalition ever seek to criticise their engagement when they were in those countries. What we have seen during the last few months is extraordinary criticism of Prime Minister Abbott—notwithstanding the terrific way in which he represented our country. We saw absolutely appalling criticism. For instance, when he was meeting with the President of China and leading a very high-powered delegation to increase trade and understanding and agreements between our two countries, those on the opposite side were trying to bring down his effectiveness. It was the first time I have seen that, and I thought it was a disgrace.

If I can come back to question time today: I think it is a sad state of affairs when we have the Leader of the Opposition in the Senate getting up and playing the man. Senator Brandis is a man of superior intellectual capacity. He is a senior counsel from Queensland. He has an extraordinary intellect which we see presented here every day of the week when we are sitting. And yet here they are, trying to diminish the standing of the Attorney-General by coming in here today and saying what they have said. It reflects really poorly on the opposition. It is not inconsistent with what they were like in government, so we should not be surprised, but it is a very poor reflection on them. Those who are listening today and who were listening in question time will be able to determine that for themselves. (Time expired)

Senator FURNER (Queensland) (15:22): I also rise to take note of the answers provided by the Attorney-General today in question time. On the subject of listening, one merely needs to go out there and listen to the ethnic communities that certainly our side of politics represents and believes in. The Attorney-General claims that he is aware of a variety of views in the community about this exposure draft for the repeal of section 18C of the Racial Discrimination Act, which currently makes it illegal publicly ‘to offend, insult, humiliate or intimidate another person or a group of people’. It would be advantageous for the Attorney-
General and those opposite to go and listen to a variety of views in the community on this subject.

I and a number of senators on this side of the chamber have been involved in that. Senator Dastyari has been involved in protests in Sydney by people in the ethnic communities, the multicultural communities—that we represent and know quite well—who are outraged. Just last Friday, I was extremely privileged to be with my Senate colleague and good friend Senator Peris up in Brisbane, on the north-western side, conducting a forum, as some senators on this side have done. In that forum, we replayed that part of question time that Senator Brandis is now infamous for, where he claimed that people have a right to be bigots. The people in the audience at that forum who had not seen that particular part of question time were horrified to see someone in one of the highest positions in this country claim that people have a right to be bigots in this country.

Does the government really want to bring back cases like the Cronulla riots of 2005? Do they really want to bring back a group of people like those we saw around the election and the installation of Pauline Hanson, when xenophobia was overflowing in this country and people attacked other people for being of different origin, for having different coloured skin, for speaking a different language? Certainly we on this side do not want to see that. I am yet to hear from those in government whether that is the case with them or what the agenda is behind these changes to 18C of the RDA.

You need only listen to the people in these communities. The Chinese, Arabic, Indigenous, Greek and Jewish communities have been urging the government to abandon the proposal. In fact, the peak lobby group, the Federation of Ethnic Communities' Councils of Australia, has warned the government that these changes would leave Australia with no protection against racial vilification. Closer to home, I would suggest that I have one of the most multicultural offices in parliament. I employ a woman from a Filipino background. She is Australian-born but she goes out in public and she is vilified and harassed with comments that are absolutely disgraceful, referring to her ethnicity and her mother's origin. I employ also an African woman. I am certain that she as well has had circumstances in the past where she has been vilified in public. I also employ a Muslim Lebanese gentleman as a staffer, and I know for a fact that he has been crucified at times merely for his religion.

The ethnic communities out there are supporting our opposition to this amendment. We on this side believe that, if the repeal of 18C is successful, we will see more and more attacks in our communities by people that have no right to make those sorts of comments, who should not be in these communities and should not have a standing where they can go around making comments about people who are all Australians, people who have come to this country with a view to making it a better place. If we allow this amendment to go through, we will be in dire straits. In summing up, I repeat a reflection by William Maley:

And perhaps it is time for Prime Minister Abbott to think about whether in his own interest he might be able to find another Attorney-General, with smaller bookcases but more common sense.

That is a matter to reflect on. (Time expired)

Question agreed to.

School Chaplains

Senator WRIGHT (South Australia) (15:28): I move:
That the Senate take note of the answer given by the Minister for Human Services (Senator Payne) to a question without notice asked by Senator Wright today relating to the National School Chaplaincy and Student Welfare Program.

The minister failed to answer the questions that I put. I asked the minister why the government was choosing not to recover $37 million paid out in advance for services up to the end of the year that have not yet been delivered under the National School Chaplaincy and Student Welfare Program. That program is now defunct. The school chaplains program has always been contentious. It was originated by the Howard government as a way to effectively get more Christianity into public schools. It was a way of foisting a particular ideology, a particular religious world view, on public schools then, and that is what the government is seeking to do again. This is particularly obvious when the answer to questions as to why the federal government was not intending to fund secular welfare workers, some of whom had been doing wonderful work in schools, has been, 'This isn't a welfare program.' That begs the question: what is it?

On 19 June 2014, the High Court ruled that the funding under the National School Chaplaincy and Student Welfare Program is invalid. It was the second time the High Court had found the program invalid in two years. This second High Court case of Williams and the Commonwealth, No. 2, found that the power relied upon by the federal government in their argument, the power under the Constitution in section 51 which allows the federal government to make laws to provide benefits to students, was not adequate to support the continued existence—or in fact the existence at all—of this particular program. The court found that the benefits provided to students were not direct enough and, as a result of that decision, the program was found to be unconstitutional and, as a result, it was found to be defunct.

At this point, I would just like to acknowledge that Mr Ron Williams who brought both Williams No. 1 and Williams No. 2 has been a persistent and tireless campaigner against the use of federal government and taxpayer funds to sponsor a religious program like this in public schools in Australia. He has again successfully highlighted the flaws in the means that the federal government has been prepared to use to subvert a proud history of secular education in Australia. The decision was that federal funding for the chaplaincy program is illegal and all payments that have been made to date are illegal.

This year $37 million of the allocated $74 million, has already been expended on the program. But a further $37 million remains to the end of the year for services that have not yet been rendered. The federal government has made a decision to waive what is effectively a debt that would be payable back into consolidated revenue. I questioned the minister representing the Minister for Education today as to the rationale for this and why the government has decided to do that. There was no answer forthcoming. There was absolutely no answer as to why that would occur. As a result, $37 million paid for the final six months of this year for services not yet provided has been paid to chaplaincy providers as a gift, essentially, of taxpayers' funding for a program that is no longer in existence and which is considered to be invalid.

This begs the question: why is the government preparing to do this at a time when they are constantly telling everybody else that the age of entitlement—not the Age of Enlightenment, but perhaps that too—is at an end? We are seeing cruel cuts in the federal budget to people
who are in receipt of Newstart payments, pensions decreasing over time, and single parents being affected, yet the government has effectively decided to gift $37 million for the rest of this year to chaplaincy services.

The other question which the minister failed to answer is: given that the federal education department website acknowledges that the federal government can no longer fund or, indeed, administer this program, which means that all the guidelines, the codes of conduct and the administration which oversaw the safety of the program have now come to an end, the federal government has not been able to say via the minister's response how the welfare and safety of students can be guaranteed or, indeed, will be managed by the federal government until the end of the year. They have tried to put the responsibility on states, but that is not sufficient or adequate. It is a federal government responsibility if they are facilitating the continued operation of this illegal program. We remain to see how the safety and welfare of students will be guaranteed.

Question agreed to.

PERSONAL EXPLANATIONS

Senator FAULKNER (New South Wales) (15:33): I seek leave to make a brief personal explanation as I claim to have been misrepresented.

Leave granted.

Senator FAULKNER: I thank you, Mr Deputy President, and I thank the Senate. In last Saturday's Weekend Australian, on page 14, Gerard Henderson wrote an article entitled 'Occupied' East Jerusalem stunt confuses fact and fiction'. He wrote:

JUNE 4 in the Senate foreign affairs and trade estimates committee resembled the Labor-Greens alliance of recent memory. Greens Senator Lee Rhiannon tagged with Labor's Sam Dastyari and John Faulkner with help from independent senator Nick Xenophon to confront Attorney-General George Brandis on Israel.

The article went on:

Despite the evident support given to Rhiannon by Dastyari, Faulkner and Xenophon, there is no evidence to suggest that any Australian government minister has referred to 'occupied East Jerusalem'.

Mr Henderson backed up these claims yesterday on the ABC's Insiders program when he said:

This was a political strike by Lee Rhiannon. I'm surprised she got the support of Labor Senators Sam Dastyari and John Faulkner... and also Nick Xenophon.

There is simply no truth to these claims in relation to me. Of course I cannot and will not speak for others. But I did not tag with Senator Rhiannon or anyone else. I did not support, nor for that matter did I fail to support, Senator Rhiannon. I did not engage in any substantive way in the committee's deliberations on that issue.

The fact is I had no idea that either Senator Xenophon or Senator Rhiannon would raise this issue at estimates. None. And I played virtually no role in the matter as the record shows. An objective examination of the committee Hansard, pages 107 to 119, records that on 4 June I raised a number of committee process issues. Those brief contributions were supported by Senator Brandis, and I did utter a couple of jibes about Communist Party affiliations and former US Senator Joseph McCarthy, which I accepted, along with what other senators were saying about those matters, had no relevance to the hearing.
On the substantive subject of Mr Henderson's article, "Occupied" East Jerusalem stunt confuses fact and fiction, I made only one very brief intervention. That intervention appears on page 118 of the Hansard. It is a most unremarkable comment, as was Senator Brandis's response agreeing with me! Let me quote it:

Senator FAULKNER: It wouldn't be a proper noun if it didn't have an upper case O, would it?

Senator Brandis: Quite right, Senator Faulkner.

Then he went on to address Senator Rhiannon. I urge anyone interested, if there is anyone who is interested, to read the committee Hansard of 4 June and also pages 4, 5, 6 and 7 of the transcript of the proceedings of Thursday, 5 June. There is no doubt Mr Henderson's comments about my role at the committee on this issue are wrong and quite misleading. I spoke to Mr Henderson this morning, as is my practice before I make a personal explanation in the Senate chamber, and I believe that he now accepts that this is the case, and I am confident that he will ensure that the inaccuracies in the article are corrected. For the record, I have consistently supported Labor's policy and platform for an enduring and just two state solution for Israel and Palestine.

Senator DASTYARI (New South Wales) (15:38): I seek leave to make a brief a personal explanation as I claim to have been misrepresented.

Leave granted.

Senator DASTYARI: I wish to clarify a comment attributed to me in former Senator Bob Carr's book, Diary of a Foreign Minister, referenced in an article in today's edition of the Australian. I think it is well-known that former Senator Carr is a very close friend, a supportive mentor and someone who I hold in the highest regard. His book captures a turbulent period in the history of Australia and the history of the Labor Party. It is a fantastic book, and it is hardly surprising that it is already a bestseller.

As the General Secretary of the NSW Branch of the Labor Party, I would speak to Anthony Albanese from time to time on party issues. Mr Albanese expressed the view to me, both privately and publicly, that Labor Party leadership should not be debated in the media and that our focus should be on governing. That was the message I intended to convey to Mr Carr in the conversation referenced in his book and again referenced in today's Australian. I apologise to Mr Carr and others if I left him or anyone else with the impression that Mr Albanese's concerns extended any further than his desire to prevent the public airing of Labor's dirty laundry.

PETITIONS

The Clerk: A petitions has been lodged for presentation as follows:

Palliative Care Hospice in Wagga Wagga

TO THE HONOURABLE PRESIDENT AND MEMBERS OF THE SENATE IN PARLIAMENT ASSEMBLED

This petition of certain citizens of Australia draws to the attention of the House the absence of a palliative care hospice in the Wagga Wagga, New South Wales district.

Your petitioners ask that the House acknowledge the lack of this critical health care facility and support the construction of a 10 bed palliative care hospice in Wagga Wagga associated with the Wagga Wagga Base and Calvary Private Hospitals.
by Senator Stephens (from 183 citizens).
Petition received.

NOTICES

Presentation

Senator Collins to move:
That the time for the presentation of the final report of the Select Committee on School Funding be extended to 9 July 2014.

Senator Williams to move:
That the time for the presentation of the report of the Environment and Communications Legislation Committee on the National Broadband Network Companies Amendment (Tasmania) Bill 2014 be extended to 16 July 2014.

Senator Parry to move:
That standing order 72 be amended, with effect from the next day of sitting, as follows:
Omit paragraph (3), substitute:
(3) (a) The asking of each primary question shall not exceed one minute and answers to them shall not exceed two minutes.
(b) Two supplementary questions shall be allowed to each questioner, each supplementary question shall be limited to thirty seconds and the answers to them shall be limited to one minute each.
(c) Answers shall be directly relevant to each question.

Senator Parry to move:
(1) That:
(a) standing orders 55(1), 57(1)(d) and 59 be modified as follows to provide for the consideration of general business orders of the day relating to bills on Thursdays from 9.30 am for not more than 2 hours and 20 minutes; and
(b) this order operate as a temporary order until 30 June 2015 with effect from 7 July 2014.

55 Times of meetings
(1) The days and times of meeting of the Senate in each sitting week shall be:

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<tr>
<th>Day</th>
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<tr>
<td>Monday</td>
<td>10 am – 6.30 pm, 7.30 pm – 10.30 pm</td>
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<tr>
<td>Tuesday</td>
<td>12.30 pm – adjournment</td>
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<td>Wednesday</td>
<td>9.30 am – 8 pm</td>
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<tr>
<td>Thursday</td>
<td>9.30 am – 8.40 pm</td>
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57 Routine of business
(1) The routine of business shall be:
(d) On Thursday:
(i) General business orders of the day for consideration of bills only for up to 2 hours 20 minutes
(i) Petitions
(ii) Notices of motion
(iii) Postponement and rearrangement of business
(iv) Formal motions – discovery of formal business
(v) Consideration of committee reports under standing order 62(4)
(vi) Government business
(vii) At 12.45 pm, non-controversial government business only
(viii) At 2 pm, questions
(ix) Motions to take note of answers
(x) Any proposal to debate a matter of public importance or urgency
(xi) Not later than 4.30 pm, general business
(xii) Not later than 6 pm, consideration of government documents under general business
(xiii) Not later than 7 pm, consideration of committee reports and government responses under standing order 62(1)
(xiv) At 8 pm, adjournment proposed
(xv) At 8.40 pm, adjournment.

59 Government and general business

Government business shall take precedence over general business, except that general business shall take precedence over government business on Thursday as follows:

(a) from 9.30 am, for a period not exceeding 2 hours and 20 minutes, general business orders of the day for the consideration of bills shall be considered; and

(b) from not later than 4.30 pm, for a period not exceeding 2½ hours, and general business orders of the day shall take precedence over general business notices of motion on alternate Thursdays.

Senator Di Natale: to move:

That the following matter be referred to the Legal and Constitutional Affairs References Committee for inquiry and report by 27 October 2014:

The need for, and implications of, federal legislation with regard to the rights of terminally ill people to seek assistance in ending their lives, and an appropriate framework and safeguards with which to do so; having particular reference to the proposed Medical Services (Dying with Dignity) Bill 2014.

Senator Siewert: to move:

That the following bill be introduced: A Bill for an Act to amend the Aboriginal and Torres Strait Islander Act 2005, and for related purposes. Aboriginal and Torres Strait Islander Amendment (A Stronger Land Account) Bill 2014.

Senator Ludlam: to move:

That the Senate—

(a) applauds the action taken by the Republic of the Marshall Islands in the International Court of Justice under Article VI of the Nuclear Non-Proliferation Treaty against the United States, Russia, China, France, the United Kingdom, India, Pakistan, Israel and the Democratic People’s Republic of Korea, for their failure to fulfil their obligations with respect to nuclear disarmament;

(b) notes that:

(i) in taking this action, the Republic of the Marshall Islands is in effect acting on behalf of all the world’s peoples in upholding international law, and

(ii) the effects of the use of even a small percentage of the 17 000 nuclear weapons currently operational would be catastrophic for society and the global climate, and could bring about the deaths of up to 2 billion people from nuclear winter-induced famine; and

(c) urges the Australian Government to join with the Marshall Islands legal action.
BUSINESS

Leave of Absence

Senator KROGER (Victoria—Chief Government Whip) (15:40): by leave, I move:
That leave of absence be granted to the following senators:
Senator Fawcett for 23 June and 24 June 2014, on account of parliamentary business; and to Senator Mason from 23 June to 26 June 2014, on account of ministerial business.
Question agreed to.

COMMITTEES

Environment and Communications Legislation Committee

Meeting

Senator KROGER (Victoria—Chief Government Whip) (15:41): by leave, on behalf of the chair of the Environment and Communications Legislation Committee (Senator Williams), I move:
That the Environment and Communications Legislation Committee be authorised to hold a private meeting otherwise than in accordance with standing order 33(1) during the sitting of the Senate on Tuesday, 24 June 2014 from 12.30pm.
Question agreed to.

NOTICES

Postponement

The following items of business were postponed:
Business of the Senate notices of motion nos 3 and 4 standing in the name of Senator Wright for today, proposing the disallowance of the Bankruptcy Amendment (2014 Measures No. 1) Regulation 2014 and Division 2.11 of the Bankruptcy (Fees and Remuneration) Determination 2014, postponed till 23 June 2014.
General business notice of motion no. 191 standing in the name of Senator Urquhart for 18 June 2014, relating to the International Year of Solidarity with the Palestinian People, postponed till 24 June 2014.

MOTIONS

Seafood and Seafood Products

Senator XENOPHON (South Australia) (15:42): I seek leave to amend the motion No. 3 standing in my name by deleting the words 'Community Affairs References Committee' and replacing them with 'Rural and Regional Affairs and Transport References Committee' and ask that it be taken as a formal motion.
Leave granted.

Senator XENOPHON: I move the motion as amended:
That the following matters be referred to the Rural and Regional Affairs and Transport References Committee for inquiry and report by 27 October 2014:
The current requirements for labelling of seafood and seafood products, with particular reference to the following matters:
whether the current requirements provide consumers with sufficient information to make informed choices, including choices based on sustainability and provenance preferences, regarding their purchases;

(b) whether the current requirements allow for best-practice traceability of product chain-of-custody;

(c) the regulations in other jurisdictions, with particular reference to the standards in the European Union (EU) under the common market regulation (EU) No 1379/2013 Article 35;

(d) the need for consistent definitions and use of terms in product labelling, including catch area, species names, production method (including gear category), and taking into account Food and Agriculture Organisation guidelines;

(e) the need for labelling for cooked or pre-prepared seafood products with reference to the Northern Territory’s seafood country of origin regulation;

(f) recommendations for the provision of consumer information as determined through the Common Language Group process conducted by the Fisheries Research and Development Corporation;

(g) whether current labelling laws allow domestic seafood producers to compete on even terms with imported seafood products; and

(h) any related matters.

Question agreed to.

Marrakesh Treaty

Senator WHISH-WILSON (Tasmania) (15:43): I move:

That the Senate—

(a) notes:

(i) the World Blind Union estimates that currently only 5 per cent of all published books in the developed countries and less than 1 per cent in developing countries are ever produced in accessible formats for persons who are blind, visually impaired, or otherwise print disabled,

(ii) the Marrakesh Treaty, which facilitates access to published works for these persons, closes for signature on 26 June 2014,

(iii) the instrumental work Australia did during the Marrakesh Treaty negotiations, and

(iv) the Australian Government is yet to sign the treaty despite Australia's major trading partners, including China, the United States, the European Union and Indonesia having already signed; and

(b) calls on the Government to sign, and ratify the Marrakesh Treaty.

I seek leave to make a short statement.

The DEPUTY PRESIDENT: Leave is granted for one minute.

Senator WHISH-WILSON: This Marrakesh treaty is critically important for visually impaired people right across the globe. Only one to seven per cent of all the books that have been published have been converted to a form that makes them accessible to those of us who are visually impaired. This treaty seeks to try and remove one of the main impediments to providing this material to the visually impaired in that it looks at tackling the copyright restrictions that have caused this situation to occur. About 65 countries so far have signed up to be initial signatories. Although we have had some discussions with the government in the past week, and I understand they are on their way to signing this treaty, we feel it is very important that Australia is one of the initial signatories, given how critical this is to the visually impaired across the planet. It is a fantastic initiative and we would encourage the government to get on board and sign it.

The DEPUTY PRESIDENT: Leave is granted for one minute.

Senator FIFIELD: This is an important issue that should be above politics, but the Australian Greens, it looks, are seeking to score points here. The government will make an announcement on the Marrakesh treaty in the next few days. I do understand that the Australian Greens were made aware of this last week and still decided to pursue this motion. The government will not be opposing this motion. I would like to take the opportunity to remind the Senate that parliament has an important role to play in determining whether the Australian government should ratify a treaty, including consideration by the Joint Standing Committee on Treaties, of which I know Senator Ludlam is a member. Unlike those who are proposing this motion, this government does not and will not presume to predict the outcome of the deliberations of this parliament.

Senator MOORE (Queensland) (15:45): I seek leave to make a short statement.

The DEPUTY PRESIDENT: Leave is granted for one minute.

Senator MOORE: The opposition will be strongly supporting this motion. We believe that the importance around the issues of the Marrakesh treaty need to be discussed in this place and acknowledged in this place. We put on record our support for this motion.

Question agreed to.

Iraq

Senator HANSON-YOUNG (South Australia) (15:46): I ask that general business notice of motion No. 285 standing in my name for today relating to a moratorium on the return of Iraqi asylum seekers, given Iraq is now a war zone, be taken as formal.

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

Senator Moore: Yes.

The DEPUTY PRESIDENT: Formality has been denied, Senator Hanson-Young.

Senator HANSON-YOUNG: Pursuant to contingent notice, and at the request of the Leader of the Australian Greens, I move:

That so much of standing orders be suspended as would prevent me from moving a motion relating to the conduct of the Senate, namely motion No. 285, which is in relation to a very serious matter of the deportation of Iraqi asylum seekers back to Iraq.

I am appalled, to be honest, that I have been denied formality in relation to this matter, by the Labor Party. This is a situation where individuals as recently as last week were being forcibly returned to Iraq. We know the situation there is extremely dangerous. We have heard for days, over the last week, from our own Prime Minister about how atrocious the situation there is, how the brutality and the terror is being inflicted not just on members of the official Iraqi military but on the citizens themselves. Of course it is the citizens who end up suffering the most in these circumstances. We know that already over half a million people have been displaced from Iraq in the last couple of weeks. We know that there are over 500 Iraqi asylum seekers detained in Australian detention centres today. There are several thousand more who are living in the community waiting for their claims to be processed as asylum seekers and to be given refugee status.
It is incredibly galling to see the political play in this place by those on the government's side about how we need to crack down and do things in order to help what is going on in Iraq. Yet the very same people are forcibly removing Iraqi asylum seekers back to Iraq. Even as recently as today I have been told that we are now paying $6,500 to people who have been treated so appallingly, who have been told that they have no rights and, that they have got no prospects of ever becoming refugees in Australia. So we are paying them $6,500 to jump on a plane to go back to a war zone.

Our country used to stand up for what is right. Our country used to say, when people were in need of help and protection, that we would give them a helping hand and we would support them. When Bob Hawke announced after the Tiananmen Square massacre that the Chinese students who were in Australia could stay because of their need for safety and protection, that was the right thing to do. Today we have people who are already here, living in fear of being returned home to face the brutalities of what is being drawn out in Iraq, in their home communities, and we cannot even give those people a helping hand and the protection that they deserve. A moratorium on sending people back to Iraq is common sense.

There is a terrible situation unfolding in Iraq. The very least that this government and this parliament could do is to stand up for the basic human rights of those individuals and say, 'You know what? We're not going to send you back into the pit of terror. We will not send you home to your death.' I think it is appalling that we now see the Labor Party not only not being able to support what is a common sense motion calling on the government for a moratorium but not even wanting to debate this motion properly. That is cowardice—absolute cowardice. There are times in our nation's history where you have to stand up for what is right, where you have to stand up for things regardless of the political expediency of the day. Sending Iraqi asylum seekers back to the pits of terror where they will be killed is not the right thing to do. Calling on the government of the day to issue a moratorium and halt the deportation of these people is the right thing to do. The government are not just forcibly returning individuals; they are paying people; they are bribing people. They are pushing people to choose between the two evils: the hellhole of Manus Island versus being shot in a war zone in Iraq. That is the depth that this government is going to, and it is appalling that the Labor Party is standing by and letting it happen.

Senator CASH (Western Australia—Assistant Minister for Immigration and Border Protection and Minister Assisting the Prime Minister for Women) (15:51): The government will not be supporting this motion to suspend standing orders. I do not believe Senator Hanson-Young, in her speech, put forward any reasons as to why the motion should be supported.

Senators will be aware that it is the longstanding position of consecutive governments that complex or contested matters of foreign policy should not be dealt with in this fashion on the floor of the chamber. If Senator Hanson-Young is unaware after six years in this place of the practice of consecutive governments, I would suggest the senator may wish to avail herself as to the practices and procedures of this place. In the event that Senator Hanson-Young is aware of the practice and procedures of former consecutive governments, I would say that clearly indicates that the motion before the Senate is nothing more and nothing less than a political
stunt on behalf of the Greens, which is obviously disappointing given the gravity of the situation currently in Iraq.

Further to the statement given by Senator Fifield last week in response to this matter, I will confirm with the Senate that the Minister for Foreign Affairs has announced that Australia will provide $5 million in humanitarian assistance to support the hundreds of thousands of people fleeing violence in Iraq. Australia's assistance will be provided through the United Nations High Commissioner for Refugees and the World Food Programme. This assistance will provide food, medical assistance, tents, access to clean water and hygiene kits. And the government is continuing to monitor what is a dynamic and evolving situation in Iraq to take into account any emerging risks. I confirm that the government will not be supporting this motion to suspend standing orders.

Senator Faulkner (New South Wales) (15:53): I do appreciate an opportunity to speak on this motion to suspend standing orders. To commence my contribution, I would like to commend to the Senate a statement that I made on 27 May 1998. At the time, I was the Leader of the Opposition in the Senate. That statement did outline a position that the opposition of the day would take on foreign policy matters that were addressed by general business notices of motion, not every general notice of motion but contentious and controversial general business notices of motion on foreign policy matters—in other words, on those questions where there was not agreement around the chamber.

What Senator Cash said is true but only in part, because the opposition of the day took the view that such complex matters could not be adequately determined through seeking formality and then passing whatever notice appeared on the Notice Paper. Why? Because it is such a blunt instrument. You only have two choices: to treat the matter as formal or to deny formality and then to either vote for the motion or against it. Amendment is not possible. It is a very blunt instrument.

I have consistently spoken on this matter, not only in 1998, but I would also commend to you the contributions I made more substantively on this matter on 27 March 2003 then 11 May 2004. I have been concerned for literally a decade and a half, if not two decades, about the fact that the nuances and subtleties of foreign policy issues can be lost when there is no opportunity to adequately address them through that mechanism. I do not think it is true to say—as Senator Cash says—that it is longstanding policy. The government of the day, the coalition government, did not support these proposals and the mechanism that I recommended back in 1998. It has not been applied consistency and it should be. I wish I could say today that the federal parliamentary Labor Party has always applied this principle consistently. It has not, but, I can assure you, I have. I am still arguing, as you would be able to confirm, Mr Deputy President Parry, that the chamber needs to address this so we do not have these types of debates. I hope the Procedure Committee will give this renewed consideration and impetus to try and fix a problem that we have had before us for literally decades.

The issue that Senator Hanson-Young raises is a critically important one. Much of what she said is so true about these matters. The issue is: how do you debate it? What is the proper and fair process? Is it to declare formality and vote through or not vote through a motion? Of course not. We need a better mechanism. It is about time—in fact, it is long overdue—for the Senate to establish that better mechanism so we do not have these sorts of debates. I at least
can say on this I have been consistent for a long period of time. And I ask senators from all parties to come to grips with this critical issue of Senate procedure.

Senior SIEWERT (Western Australia—Australian Greens Whip) (15:58): Sometimes I do agree with Senator Faulkner about procedure in the Senate. On this particular motion, I do not. This motion calls on the government to issue a moratorium on the return of any asylum seekers back to Iraq and offer a reprieve to those detained in immigration detention on Manus Island, Nauru and Christmas Island to allow them to apply for protection in Australia.

Quite frankly, this is an urgent situation. This is the type of situation I would expect these sorts of motions to apply to. This is urgent. Motions deal with this sort of urgency. It is a blunt instrument because this is a very desperate urgent situation where people are being moved back to a war zone. This is a war zone. Their lives are at risk. As late as the Sunday before last, less than 10 days ago, an Iraqi man was taken back to Iraq, to a war zone. This is urgent.

What we are seeing in this chamber is, 'Actually, we don't want to talk about it.' No approach was made to us to try and amend this motion or to send it to a debate. It was just, 'No, we are not going to grant you formality for a situation that is desperate.' It is the very sort of situation that these motions should be able to deal with. What this chamber would apparently prefer to do is to send this off to a debate. That is because when you block formality here, it gets put on the end of the Notice Paper and it never comes back. That is not appropriate for a situation that is desperate. People are being sent back to a situation where they are highly likely to lose their lives. That is how Australia thinks it is appropriate to treat refugees, people who have fled terror and who have fled prosecution.

What is happening now in Iraq are situations arising where there is terror, where there is persecution happening and where you are seeing armed conflict. That is not appropriate. I would have thought this was a fairly obvious motion to enable us to actually send a message to the government that we want a moratorium on sending refugees back to Iraq—remembering that we are talking about refugees, who are people who have already fled for their lives—to say, 'Don't send them back to that situation now.'

Globally, they are trying to deal with this issue. One of the things that we can do is make sure that people who are already terrorised, who have already fled for their lives and who have already fled this sort of conflict, are not sent back to a situation that everybody globally is saying is outrageous and is trying to rectify. It is not appropriate. We do not believe that you should say, 'No, we are not even going to think about it in this chamber. Let's put it off to a debate somewhere much further down the track.' They could at least come to us and say, 'Actually, can we amend this?' No, there was nothing like that. I understand from Senator Hanson-Young that no approach was made about amending this or, in fact, trying to work out a time to debate this issue.

In the Greens, we believe that it is totally unacceptable to be forcing people back to Iraq, which is a war zone. We do not support that sort of approach by the government of this country in our name. This motion calls on the government to issue a moratorium to say that it is basically not appropriate to send asylum seekers back to a war zone. We will never support asylum seekers being sent back to a war zone—not now and not in the future.

The DEPUTY PRESIDENT: The question is that the motion to suspend standing orders moved by Senator Hanson-Young be agreed to.
The Senate divided. [16:07]
(The Deputy President—Senator Parry)

Ayes .................... 11
Noes .................... 39
Majority ............... 28

AYES

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

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

NOES

Bernardi, C
Boyce, SK
Bushby, DC
Carr, KJ
Dastyari, S
Farrell, D
Fifield, MP
Gallacher, AM
Lines, S
Lundy, KA
McEwen, A (teller)
McLucas, J
O'Neil, DM
Peris, N
Pratt, LC
Ryan, SM
Singh, LM
Stephens, U
Tillem, M
Williams, JR

Bishop, TM
Brown, CL
Cameron, DN
Colbeck, R
Edwards, S
Faulkner, J
Furner, ML
Kroger, H
Ludwig, JW
Marshall, GM
McKenzie, B
McKee, CM
Parry, S
Polley, H
Ruston, A
Seselja, Z
Smith, D
Thorpe, LE
Urquhart, AE

Question negatived.

MATTERS OF URGENCY
Future of Financial Advice

The DEPUTY PRESIDENT (16:09): The President has received the following letter, dated 23 June 2014, from Senator Moore:

Dear Mr President

Pursuant to standing order 75, I move that, in the opinion of the Senate, the following is a matter of urgency:


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 DASTYARI (New South Wales) (16:10): I move:

That, in the opinion of the Senate, the following is a matter of urgency:


Last Friday, the Minister for Finance and still acting Assistant Treasurer, Senator Mathias Cormann, took initial steps to remove important consumer protections from Labor's Future of Financial Advice reforms. Make no mistake, if the minister is successful in pushing through these changes, the Abbott government must take full and unambiguous responsibility for the scandals that will inevitably result. Labor in this place will vote down the proposed changes in their current form and use whatever Senate tools, be they disallowance motions or other, available to ensure that these important protections are not watered down. Labor will use whatever power it has to ensure that consumers are protected against a handful of criminals operating in the financial services industry who have given the many good financial planners out there a bad name.

When the Hon. Bernie Ripoll, now Labor's financial services spokesman, drafted the FoFA legislation in the wake of a series of horrific and costly collapses, it was after an exhaustive period of detailed public consultation. Throughout 2009, everyone from indebted victims, financial experts through to the big banks were given the opportunity to participate in developing these laws. But, last week, we had the co-author of the 'budget of broken promises', Senator Mathias Cormann, supported by a Liberal Party-dominated Senate committee, push for a repeal of this legislation.

I have spent much of the short time that I have been in this place listening to people who have been ripped off, often by fraud, deception and collusion, and left penniless by a financial advice industry that previously had no firm legal obligation to act in the best interests of their clients. I have sat on the Senate inquiry into the performance of ASIC and heard the horrific stories of fraud, abuse and utter dereliction of a basic fiduciary duty by players across the financial services industry—all the way from the boiler rooms to the nation's biggest, and supposedly respected, banks. Thousands of families were left out-of-pocket by the collapse of Storm Financial. The names Timbercorp, Opes Prime, Fincorp—

Senator Williams: Great Southern.

Senator DASTYARI: Great Southern, Trio and Commonwealth Financial Planning are synonymous with the abuse of trust that happened under the flimsy legal framework that existed before FoFA. All of these scandals have resulted in losses of almost $6 billion and have cost over 100,000 clients—many of them mum and dad investors—their savings, their homes and, in many cases, saddled them with debts that continue to grow. In the case of Timbercorp, the victims have been left paying double-digit interest rates on loans which, unfortunately, they had no idea they had taken out.
Before FoFA, for the financial advice industry the living was easy! It was easy to make a living ripping off the little guys. Unfortunately, a minority of financial planners used that opportunity to rip off thousands of hardworking, decent Australians. But the introduction of FoFA created a clear and long-overdue legal barrier to end dodgy schemes being pushed, with sales commissions or remuneration structures that ignored the best interests of the client. It is the slipperiest of slopes when the incentives are stacked in favour of selling a product rather than providing impartial advice in a client's best interest.

It is not just the sharks who are guilty of this; the big banks would prefer FoFA were changed to allow them to quietly whittle away at their clients' savings, with fees from those little extras that bank tellers were once able to pitch over the counter. Those tiny amounts add up quickly. The big banks' profits in this country totalled $29 billion last year—a lot of money that is no longer in the bank accounts of ordinary Australians. This is the secondary effect of commission based advice: in addition to taking money from clients, it is also money that does not go into the national savings pool. The current FoFA laws have been estimated to add $144 billion to our aggregate savings by 2027. This massive national windfall will be directly jeopardised by the repeals proposed.

Bernie Ripoll's FoFA reforms provided a strong legal framework to distinguish advice from sales. Our financial advice industry will not gain the trust of ordinary Australians until it makes a firm commitment to planning and tailoring advice, and explaining the possible risks to each client, whether they are saving for their first car, paying off a second mortgage or refinancing to grow a business. Of course, those who stand to gain financially from the old system want to go back to clipping the ticket, without the hassle of basic consumer protections. But their incentives should not dictate how our laws function. This is already bad policy and, with the government's proposed reforms, we now await some fascinating politics.

The minister, Senator Cormann, is an interesting character. While he favours some of the government's more extreme policies, he is also one of the government's shrewdest political operators. He knows that they are bleeding viciously after budget. Will he follow his ideological instincts and belligerently plunder the consumer protections in FoFA to appease a handful of sectional interests, who would love nothing more than to be taking fees and commissions once again? Or, as this debate progresses, will Minister Cormann be smart enough to back off?

It took Prime Minister Howard nearly 10 years before he over-reached and destroyed his own government. Will Minister Cormann, Treasurer Hockey and Prime Minister Abbott smash this record, by both plodding forward with a deeply unpopular budget and pushing changes to FoFA that will hurt ordinary Australians and present a clear and present danger of the kinds of collapses that triggered the changes in the first place? These reforms were put forward for a reason, and that reason was to protect consumers. They do not need to be watered down. This is not simply a matter of removing little bit of red tape. This is a wish list from the industry, who want nothing more than to go to the good old days, when they could set their own fees.

Today I met with Naomi Halpern, a victim of the Timbercorp collapse and a spokesperson for the Holt Norman Ashman Baker Action Group—a group of people who unfortunately were the victims of dodgy, crude and incorrect financial advice that they were wrongly provided.
Senator Whish-Wilson: And financial products.

Senator DASTYARI: And financial products. Ms Halpern is intelligent, articulate and incredibly well informed, but she was taken for a ride by a crook—a crook who continues to play golf around Melbourne, who continues to drive a sports car, who continues to live in a mansion—who has got away relatively scot-free, considering the pain and anguish that has been caused. We need to make sure that we have the toughest, strongest, highest set of standards, so there are no more victims like Ms Halpern in the future. What worries me so much about these proposals is that the exact events that occurred and resulted in people like Ms Halpern being ripped off are the same things that will once again be possible if the minister's reforms are adopted.

Senator BUSHBY (Tasmania—Deputy Government Whip in the Senate) (16:20): I start by saying that there has never been any issue whatsoever—and I look in the direction of Senator Whish-Wilson—about the tripartisan support that exists in this place for addressing the matter of financial advisers who seek to rip off their clients or to sign them up to dodgy products which are not in their interests and which really serve no purpose other than to line the pockets of those giving the advice. That is why, when we were in opposition, we actively participated in the Ripoll inquiry, which was referred to by the previous speaker. That inquiry came up with a unanimous suite of recommendations to address the issues that arose from issues like Westpoint, Storm, Trio and even Timbercorp. That suite of recommendations was unanimously adopted by the committee after looking at these issues, reflecting the tripartisan support of all parties involved to try to address these issues.

But FoFA went further. The legislation that the government put forward following the Ripoll inquiry went further than the inquiry's recommendations. We are seeking to make changes to the FoFA legislation to better reflect the unanimous recommendations of the Ripoll inquiry. In that sense, when Senator Dastyari talks about the Bernie Ripoll FoFA reforms he confuses me somewhat. I am not sure whether he is talking about the FoFA reforms or the Ripoll inquiry, because they are not one and the same.

Before the election it was clear that if elected we were going to make these changes. In government we are now seeking to put in place the changes that we took to the election, which were based on our dissenting report in the inquiry to the FoFA reforms. The opposition now seeks to scaremonger. They seek to beat up the idea that we are removing the best-interests requirement that is contained in the legislation and that we are removing all the reforms that were put in place to increase consumer protection in the previous government's FoFA legislation. This is absolutely not the case.

Facts are important when we are looking at this issue, so let us look at a couple. Interestingly, I note today that Alan Kohler, who has been a bit of a critic of what the government is trying to do on FoFA, has put out an article headed, 'Why Cormann is now right on financial advice'. In that article he notes:

The other parts of the government’s amendments will make very little difference now that Mathias Cormann has ‘clarified’ his undying commitment to banning commissions and making advisers act in the best interests of their clients. Having clarified that, the Minister and his drafters must now focus on de-complicating financial advice, and genuinely making it cheaper for people to get a single piece of advice.
That, in itself, is one of the reasons that we are doing this. We want to make sure that financial advice is both accessible and affordable to Australians. I think the chair of ASIC at one of the earlier hearings that the Senate committee conducted into ASIC’s performance made the comment that only about one in five Australians over their lifetime receive the benefit of financial advice. He thinks that that should be one in two Australians, but you are not going to see one in two if you make financial advice more expensive. We need to work out what can be done to ensure that financial advice is both of a high quality and accessible to ordinary Australians. Financial advice is no good if you make it so expensive that only those who have buckets of money in the first place are able to afford the benefits of advice on how to invest. You need to broaden the accessibility and ensure that advice is affordable to all Australians. When it comes down to it, it is often people who do not have a lot of money who really need the advice more than anybody else.

Interestingly, a few weeks ago ABC Fact Check, which is not well known for drawing conclusions in the government's favour, conducted a fact check on Chris Bowen's comments about financial advice, which are summed up in Senator Dastyari's closing comments on the motion. Fact Check looked at the commentary that the financial planning and advice industry is about to return to the bad old days when retirees lost their life savings in dodgy investments that paid big commissions to their advisers. They asked whether that is really the case and after looking into the issue in some detail they conclude:

Mr Bowen is scaremongering. The proposed changes to the conflicted remuneration provisions do not bring back the type of commissions that financial advisers could receive before FOFA was introduced.

It is important to remember that that fact check was undertaken prior to the changes that Minister Cormann announced last Friday, which make that conclusion even clearer.

Let us look at the reality of what we are doing. The underlying objective of FoFA, as I said before, was to improve the quality of financial advice whilst building trust and confidence in the financial advice industry. Whilst the government agrees with the policy intent of FoFA, from the government's perspective it is quite clear that the legislation in parts went too far and impacted the balance between consumer protection and accessibility and affordability of advice. The objectives of the government's improvements to FoFA are to unwind the regulatory overreach created by the current FoFA legislation, which, in the government's and others' opinion, went beyond the original recommendations of the 2009 parliamentary joint committee inquiry; to reduce regulatory costs, thereby placing downward pressure on the cost of financial advice to consumers; and to provide certainty to the financial services industry by clarifying the operation of FoFA.

It is really important to clarify, because this is where scaremongering comes into the debate, that the key consumer protections and the objectives that were placed into FoFA when Labor first introduced it will remain. I emphasise that the key consumer protection objectives will remain in FoFA and I will go through them. Advice will continue to be in the best interests of the client. This is contained in section 961B(1) of the act and it is not changed at all. That makes it absolutely clear that the advisers must act in the best interests of their client. In addition, the advice must be appropriate to the client. That is contained in section 961G and also does not change under our proposed amendments. An adviser must provide a warning if there is any incomplete or inaccurate information. That is contained in section 961H and does
not change under our amendments. An adviser must prioritise their clients' interests ahead of their own, which is contained in 961J.

Interestingly, at the Senate Economics Legislation Committee inquiry, senior legal advisers gave evidence that the primary obligation contained in the legislation, and of a much higher standard than the best-interests requirement, was that the financial advisers must prioritise their clients' interests ahead of their own. Legal advisers thought that was a much higher standard than the best interests. I think it is. If you have to put your own interest behind those of your client when you are providing advice then it is quite clear who comes out of that in front.

Further, conflicted remuneration structures, including commissions, that have the ability to influence advice are banned. That is important: financial advisers are banned from accepting remuneration that might influence the advice that they give. That will remain under the changes that we are making. Consumers will also continue to have access to high-quality financial advice, which is clearly one of the objectives of FoFA.

I have mentioned the Senate committee report. The Senate Economics Legislation Committee was asked to look into this and on 16 June 2014 the committee released its report. Overall, the committee found that the proposed amendments achieve a proper balance between providing adequate consumer protection and sound, professional and affordable financial advice. The committee recommended that the bill be passed after the government give consideration to two recommendations: firstly, that the explanatory memorandum include a paragraph to clarify the best-interest obligations and the level of consumer protection that they provide and whether any further strengthening is required to ensure that these obligations cannot be circumvented. Secondly, the government should consider redrafting the conflicted remuneration provisions to ensure greater clarity.

The government has since agreed with these recommendations and has responded by introducing parliamentary amendments and making changes to the explanatory memorandum to address the committee's concerns as expressed in their recommendations. Other findings of the committee included: that the best-interest duty remains robust and comprehensive; that clients receive scaled advice without diminishing their protections; that conflicted remuneration provisions redressed the problem of legislative overreach created by the original FoFA legislation, which essentially banned activities and remuneration structures that could not possibly influence the advice that was being provided to their clients and as such caught up in the net things that were never intended to be caught by FoFA. The committee also found that the amendments were not intended to bring back commissions in any form, which—contrary to some people's opinions or conclusions—was always the intention. Clearly, the wording, in the view of the committee, needed some tightening up to make that clear, even though the intention was that commissions were always intended to be banned in any form, whether upfront or trailing. Looking at general advice and conflicted remuneration, which is one of the hot spots here, the government made an election commitment to amend the law to enable incentive payments which do not conflict advice—(Time expired)

**Senator WHISH-WILSON** (Tasmania) (16:30): Having worked in the financial services industry and having been part of this inquiry, I say that it is a very complex area. I see the FoFA laws that were implemented as trying to simplify a very complex area, although some say they had overreach or overkill. During the inquiry we were told that if financial planners,
for example, were to exhaust the list of things they needed to do to act in their client's best interests, that list could potentially be 30 or 35 checklists long. That is why the catch-all provision was put in, as it has been for other professional industries: to make sure that everything had been exhausted. But it was not to go into the legislation because that would have been very complex. When it comes to scaled advice, even the experts disagree as to where it kicks in and where it does not. We still have problems with defining 'personal advice' and 'general advice'. All these complexities are the reason we needed a simple set of laws that achieved a balance in protecting consumers in this country.

Senator Bushby said the impact went too far and it tipped the balance. It was designed to increase confidence in the financial planning and financial services industry. It was designed to get more people to go to financial planners, and that is a good thing. I met a lot of really good financial planners during this inquiry, and I must say that a lot of the smaller financial planners who charge a fee for service do a great job and that they have amazing relationships with their clients. That is not the issue for the Greens. The issue is the large vertically integrated financial services companies that we know have a conflict of interest inherent in their business models. The Australian Bankers' Association said on the record during the inquiry that they wanted these FoFA laws changed before 1 July so that they did not have to put in place costly compliance mechanisms in their back offices. To me, the real issue here is the opportunity costs of their lost income; the big financial services companies make so much money out of cross-selling products to their client bases. It is that lost income that is the elephant in the FoFA room. Why have the Bankers' Association and the financial services associations, representing the big end of town, lobbied so hard for these changes before some of them are even implemented?

I think the Greens have taken an eminently sensible approach to this inquiry by saying that, in areas such as opt-in clauses or best-interest duty or scaled advice, we should give it some time to see whether there is an increased cost for provision of financial advice—whether there are problems with increased insurance premiums, et cetera. We have not had time to see this through yet; all we have is speculation. Choice, Seniors Australia, with 200,000 members, and Certified Practising Accountants, one of the biggest lobby groups in financial services, did not want to see these laws weakened. These are very important stakeholders in this country who want to give these laws a fair go—it is not just the Greens or Labor.

Only now are we seeing the wash up of the GFC—whether it was the collapse of Storm Financial or whether it was the CBA in the media or whether it was Timbercorp, as we have seen this week—our toxic debt from the GFC is now washing through the economy. This is not the time to be weakening financial advice laws. We need to keep them strong and we need to send a very clear message to not only a few bad apples but also the big end of town that it is a cultural issue that we have to tackle through strong regulation.

Senator BILYK (Tasmania—Deputy Opposition Whip in the Senate) (16:34): I will start my contribution with a quote:

Each one of these is what I feel: persistent feelings of sadness, feelings of failure, feeling overwhelmed, loss of interest, withdrawal from family and friends, frequent anger, lack of confidence, poor concentration, tiredness, sleeping problems, feeling sick and changes in appetite.

All those is what I’ve been feeling in the last few months since we’ve been sold out of the market and just realising that it’s an impossibility to restore.
This quote comes from Storm Financial investor Phil Green when he was interviewed by the ABC. The interview formed part of a 2009 episode of the *Four Corners* program, entitled 'The Perfect Storm'. Phil Green told *Four Corners* that he earned $50,000 a year while trying to pay off a $1.8 million debt. Business commentator Robert Gottliebsen was also interviewed for the *Four Corners* program and told reporter Paul Barry that Australians had lost billions of dollars in margin-lending schemes. Like Westpoint and Timbercorp, Storm is an investment scheme that collapsed, destroying the lives of ordinary Australians who invested their life savings expecting their investments to be safe.

These tragedies occur because Australians receive bad financial advice. They receive bad advice because that advice is conflicted by commissions and vested interests. The only way to protect Australian investors from this exploitation is to make sure that they receive advice with one beneficiary in mind—and that is the investor. That was the principle which underlined Labor's Future of Financial Advice legislation, and that is the principle which is being fundamentally undermined by the Abbott government's attempt to dismantle our reforms. Rice Warner actuaries' modelling predicted that by 2027 the reforms would boost private savings by $144 billion, double the provision of financial advice and almost halve the average cost of advice. You see, Mr Acting Deputy President, what small investors need is genuine financial advice given by financial advisors, not a sales pitch given by marketers. They need advice which is in their interests, not in the interests of the people selling the product.

Submissions to the government's exposure draft of the bill and to the Senate economics committee inquiry into the bill reveal the breadth and depth of community opposition to the changes the government has proposed. The consumer advocacy group CHOICE, which is highly regarded, noted in its submission to the Senate inquiry that:

FoFA was a compromise between the interests of consumer protection and industry, and the proposed Bill tilts the balance further away from consumers.

In evidence given to the Senate inquiry, CHOICE described 'the best-interest obligation, the changes to rules about conflicted remuneration, the removal of the requirement that clients opt in to fees and the removal of the requirement for annual fee disclosure statements' as 'pretty basic consumer protections and, indeed, signs of basic good practice in business that any financial adviser should be happy to sign up to.' National Seniors Australia, an organisation which represents people over the age of 50 and has over 200,000 members, said in their exposure draft submission that the government's legislation would 'remove essential consumer protection measures and expose older Australians to greater risk and uncertainty'. The Council on the Ageing, another group representing seniors, told the Senate inquiry:

We believe the cumulative effect of these changes is to seriously weaken the reforms, giving less consumer protections and ultimately undermining confidence in the financial advice sector.

The criticisms from various professional, consumer and other community groups were nicely summed up in an opinion piece by experienced financial journalist, Alan Kohler, in which he wrote:

Under the cover of streamlining the laws and removing red tape to lower cost, the government is proposing eight changes to the law that will allow banks to once again use licensed financial advisers to sell investment products while pretending to provide independent advice.
In the detail of many submissions not only on the exposure draft but also to the Senate inquiry are criticisms of the government's proposal to weaken the best interest test; criticisms of the government's proposal to scrap the opt-in provisions; and criticisms of the government's changes to the annual disclosure and conflicted remuneration provisions. All these provisions were put in place by Labor as part of the FoFA reforms for one major reason—that is, to protect consumers.

Scraping opt-in provisions means that most people will pay fees for services they do not get—some will pay fees without even knowing. The government's changes to the best interest obligation would effectively weaken that obligation to a tick-box approach. In fact, the government's changes will weaken this provision to such a degree that they may as well scrap it entirely. As for the changes to conflicted remuneration, various stakeholder groups including financial planning industry associations have raised concerns about the potential for this to lead to unethical practices. In its evidence to the Senate inquiry, Industry Super Australia pointed to research which estimated the cost to consumers of this change alone would be more than half a billion dollars a year. This is almost three times the estimated savings to business. Mark Rantell, Chief Executive Officer of the Financial Planning Association of Australia, said in his evidence to the Senate inquiry that there were several risks in allowing commissions for general advice. In particular, he mentioned: the difficulty for consumers in distinguishing personal financial advice from marketing; the potential to shift licensees and representatives away from the provisions of personal advice in order to earn commissions; and the erosion of public confidence in Australia's financial system. With the government's legislation removing so many basic consumer protections, is it any surprise that there is such widespread opposition to these laws?

The Abbott government's attempt to dismantle FoFA has very few remaining supporters. As with anything else this government does, if you want to see who they represent, it is instructive to see who supports their actions. The few remaining supporters of this legislation are the big banks, AMP and the Financial Services Council. The FSC is essentially a proxy for the big banks, given that it is controlled by them. It is run by former New South Wales Liberal leader, John Brogden, and its political donations—at least those reported up to 30 June last year—have heavily favoured the Liberal Party. The acting finance minister, Senator Cormann, received $10,000 from the FSC in August 2012, and the Treasurer, Mr Hockey, received $11,000 through his—I might call it somewhat shady—fundraising vehicle, the North Sydney Forum.

Is it any surprise that this government would push a reform that is overwhelmingly opposed by groups representing seniors and consumers, while being supported by a small group of powerful vested interests? It is just one more of the many examples of how this government represents the big end of town; just like they represent the big end of town with their budget of cruel cuts and broken promises. This is the government which would tax ordinary Australians when they get sick, when they need medicine and when they need to go to the doctor—while giving a tax cut to billionaire mining magnates. This is the government which would cut payments to struggling families, and cut vital childcare assistance—while giving up to $50,000 to millionaire mums who have children. This is the government which would increase taxes on petrol—while cutting funding for public transport concessions. And this is the government which has the audacity, and the cruelty, to deny young jobseekers an
income for up to six months—while increasing university fees and cutting money from education.

We know that this is a dishonest government; an unreliable government. We know that this is a government that lied before the election, and that delivered a budget full of broken promises. But there is one thing in which this government will always be consistent; there is a pattern of behaviour that this government can always be relied upon to adopt—and that is, given a choice between standing up for the least powerful or the most powerful in our society, they will always side with the powerful vested interests. They will do so even when it is at the expense of ordinary Australians.

These laws are not about removing red tape; they are about dismantling Labor's reforms and leaving consumers at the mercy of shonky and unethical financial advisers—dismantling the very laws that Labor designed to protect consumers from disasters such as the Storm Financial collapse. They are essentially the same laws that were proposed by their original author—do you know who that was, Mr Acting Deputy President?—Senator Sinodinos. And I would suggest that, just as Senator Sinodinos might have been sent to the back blocks for quite a while, so should the Prime Minister also send this reform to the back blocks for just as long.

Senator WILLIAMS (New South Wales) (16:44): Mr Acting Deputy President Sterle, might I say how good you look in the chair's position there, and I hope that in the short future you are nominated for Deputy President; I think you would make a fine Deputy President.

I take offence to Senator Bilyk saying that those on this side just look after the big end of town. I started this job at the same time as Senator Bilyk and Senator Cameron, on 1 July 2008. In January 2009 I went to Redcliffe to meet with the Storm Financial victims. I was the first politician to meet with them, and I guaranteed them that I would do my best to get a Senate inquiry, which we had the numbers here to do. However, it went to a parliamentary joint committee. So, Senator Bilyk, do not come in here and tell me that I do not stick up for the battlers around this place, because I think I have done more for the battlers—those who have lost their money through shonky products and bad advice—than anyone else in this chamber.

I want to make it quite clear that I follow this very closely. I went on to the PJC, chaired by Mr Ripoll, and was on it right through that inquiry. And I will tell you what was wrong: the product was wrong. Storm Financial's product, as soon as there was a drop in the share market, was doomed for failure. The customers were geared so heavily with their debt that there was no way that the return on those shares and the capital growth in those shares could pay for the standard of living and all the interest on the debt for their house and their geared investments. It was a shonky product, and we need to see that more of these products are not out there.

But let me just talk about this whole FoFA modifications issue. The underlying objective of FoFA was to improve the quality of financial advice while building trust and confidence in the financial advice industry. We need an ethical financial planning industry with ethical products. Why is the government seeking to amend some of the consumer protections contained in FoFA? The amendments to FoFA seek to navigate the fine line between ensuring that unnecessary and burdensome regulations that drive up the costs of business and ultimately of consumers are removed. Just one in five Australians seek professional financial
We need to raise that. We need to raise that enormously, especially for the some 30 per cent of Australians who now have self-managed super funds—around $600 billion worth of money out of the $1.8 trillion worth of super. I am not going to see shortcuts in that advice.

This week Senator Bishop will deliver the report of our inquiry into ASIC that was supported by all around the chamber, especially Senator Cameron. I have made it quite clear on the public record that I want to see more. I want to see every financial planner licensed in this country—not just one licence for a big institution that may have 300 planners, but the whole 300 licensed. I want to see their history on the internet so that people can research them—whether they have been consistent in their employment, whether they have stayed in the one job for so long, what their record is like. And I want to see ASIC have the power to automatically suspend that licence—just one phone call; when ASIC receives information on wrongdoing, of not putting the interests of the client first, ASIC can call that financial planner and say: 'Charlie Brown, as of this minute you are out of your industry, your licence is suspended. You can go to the Administrative Appeals Tribunal and make an appeal, as everyone has a right of appeal, but my advice would be that perhaps you should go down to Centrelink, because we have the clear evidence that you are not putting the clients' interests first.'

And it is in there in black and white: the six points. The key consumer protection objectives of FoFA will remain. Advice will continue to be in the best interests of the client, full stop—not negotiable. The advice must be appropriate. An adviser must provide a warning if there is any incomplete or inaccurate information. An adviser must prioritise their client's interests ahead of their own. Conflicted remuneration structures, including commissions, that have the ability to influence advice will continue to be banned, and consumers will continue to have access to high-quality financial advice. That is what we are doing, and that is a protection of the general public, which is such an important issue to protect.

Regarding general advice on conflicted remuneration, I might add that in a division in here just last week Senator O'Neill said to me, 'Why are you bringing back commissions for general advice?' We are not. They are banned. They are not coming back. But let me say this: you can plug every hole in the wall as far as giving incentives to employees is concerned, but another hole will develop. I see nothing wrong with giving an incentive to workers for doing their job well and performing well, as long as they are not ripping off the people. For example, if a bank teller at the front counter talking to the public cannot get an up-front payment or commissions on it, that is fine. But what is to stop the bank from saying to that person, 'If you refer at least 50 clients to professional advice, we can knock 20 basis points off your home loan, or we can give you a company car.' You can plug every hole, but holes will still develop when it comes to institutions providing incentives for their workers. And in some cases—probably in many cases—the incentives are very good.

Commissions paid in relation to general advice will not be introduced, despite the scaremongering of many of the people trying to put out false information on this very issue. I come again to that point of ethical advice and behaviour. I mentioned what I would like to see come out about the licensing of financial planners. If they do not put the interests of their client first, regardless of what institution they work for, if they go flogging the products of their institution to get promotions or to get whatever and if that is not in the best interests of their client, then they should be suspended from the industry.
I want to move on to why the obligation to act in the client's best interests is being amended. The bills that are being introduced do not remove the requirement for advisers to act in the best interests of their clients. The requirement is enshrined in subsection 961B(1) of the Corporations Act. We have been through those parts that will remain, and they have to remain. As far as the opt-in goes, we received something like 460 submissions to that Parliamentary Joint Committee on Corporations and Financial Services in relation to the collapse of Storm Financial, Opes Prime, Timbervcorp, Great Southern et cetera. The requirement to obtain the client's agreement at least every two years adds an unnecessary and costly layer of red tape. And I will tell you why: new clients will continue to receive a fee-disclosure statement, which will contain the same information they would have had to have to determine whether they wanted to continue the fee arrangement or not. I will repeat: they will continue to receive a fee-disclosure statement. They will know what the fees are, they will know what their planner is charging them. That is the important issue here in this debate.

Stakeholders have indicated that due to the age of the systems involved it would cost almost twice as much to prepare a fee-disclosure statement for a pre-FoFA client than for a post-FoFA client. We cannot just go putting costs out, because, as I said at the start, only one in five Australians seeks financial advice from a financial planner. We need to raise that, and no doubt the ASIC inquiry we have just had has put a lot of smear on that industry—well, not smear, but it has certainly darkened it. And we need to lift that up and improve the quality so that people have faith in it.

There are reputable people and there are disreputable people. We hoped that the reputable ones would hold the disreputable ones to account. That has not worked. I do not wish to see any more people come in to my office who have had their life savings and properties and those of their families stolen from them, in effect. I do not want to see them end up having to seek welfare. I do not want to see either them or their families with mental health issues, now or in the future.

Senator MADIGAN (Victoria) (16:52): Australians know how to use their discretion; they know how to make up their minds when receiving financial advice. We are sceptical of experts but often we decide to trust them. People expect that if they are paying someone to give them advice then that adviser is going to be trustworthy and have their best interests at heart. Is this a fair assumption? From what I have seen in a lot of cases, definitely not. It has not been in the past, and this government seemingly wants to return us to those days. In fact, we have not even left those days. We still feel the effects being played out on the front pages of our papers with the recent Commonwealth Bank financial planning scandal.

I could go on about the mechanics of the bill, but we have heard those time and time again in this place. I have talked to numerous people from all walks of life and with all sorts of backgrounds, and not constrained to one postcode or another, who have been done over by dodgy and/or incompetent advice. We as regulators have a duty of care to people. We need to have credible deterrents, accompanied by credible penalties.

Bad advice affects individuals, families and communities. I have had so many people come into my office who have been affected by bad advice. We hear from the government that we have to free financial advisers to do the right thing. The fact of the matter is that human nature does not change. There are some reputable people and there are some disreputable people. We hoped that the reputable ones would hold the disreputable ones to account. That has not worked. I do not wish to see any more people come in to my office who have had their life savings and properties and those of their families stolen from them, in effect. I do not want to see them end up having to seek welfare. I do not want to see either them or their families with mental health issues, now or in the future.

Senator CAMERON (New South Wales) (16:55): I am pleased to participate in this debate. I am really, really unhappy with the contribution made by Senator Williams. Senator
Williams and I worked together on the economics committee for a long period of time, trying to get people proper protection in relation to financial advice. It was Senator Williams and I who argued strongly for the establishment of inquiries into Commonwealth financial planning and into ASIC’s role as well. Senator Williams indicated that no-one has played a stronger role than him on this issue. Up until now, that may have been true. But now we see Senator Williams capitulating to the finance sector, Senator Cormann and the party—and that is not good for consumers. I do agree that Senator Williams has played a strong role, but that strong role is no longer there. Instead of being Batman, he is now the Joker. He has gone from trying to protect people to actually arguing that things should happen that are going to make it hard for people. I do not agree with the proposition from Senator Williams.

In all the arguments coming forward are two clear groups. You have representatives of consumers and academics who have studied the legislation saying, ‘This is bad and it is taking protection for consumers backwards.’ Then you have the banks and financial institutions saying, ‘This is great. This is what should happen. We should be free to get in there and talk to our clients.’ Underpinning that approach is that they think they should be free to continue the rip-offs that have taken place in this area.

The analysis that we saw in the inquiry is that this dilutes the best-interest obligation. It removes the opt-in requirement where financial planners have to renew every couple of years the contract that they sign. It limits the consolidated annual statement of fees to new clients. Also, it waters down the ban on commissions. I, like Senator Williams, have sat in hearings listening to people saying that their lives have been devastated by a financial planner from the Commonwealth Bank or another institution that you would normally think you could trust. But you could not trust them because the legislation was weak and ineffective and the loophole in it was used by the financial planners in the Commonwealth Bank.

I do not think we can have a position either where we have Senator Williams on the one hand arguing that the coalition are protecting the consumer at the same time as they have ripped $120 million out of ASIC’s budget. ASIC themselves, the group that is supposed to be looking after consumers, said clearly, ‘We cannot do our job the way we used to do it and the people who will suffer are consumers.’ We are talking about $6 billion worth of rip-offs that have been identified over the last few years—ABC Learning, $2.5 billion; Kleenmaid, $82 million; Opes Prime, $630 million; and Storm Financial, $830 million. If that is not an issue that we should take seriously then I do not know what is.

We have seen the coalition establish a number of royal commissions based on attacking their political opponents and payback. If there is one royal commission that should be established, it is a royal commission into the finance sector. We should look at the protections and safeguards for consumers, the role of remuneration including bonuses and executive salaries, the role and resourcing of ASIC, the role of election donations and legislation, the impact on consumers, the impact on the economy, the issues for business regulation and the licensing and qualifications of financial planners, just to mention a few issues. If you ever needed a royal commission, it is a royal commission into the finance sector to protect the Australian public.

Senator BOYCE (Queensland) (17:00): We should at least find it refreshing that the opposition has moved on from budget scaremongering about the government kicking grannies and starving students and beating up the unemployed. They are trying to develop a whole new
scary monster at the bottom of the bed concerning the future of financial advice provisions. I remind the Senate that in 2009 the Joint Committee on Corporations and Financial Services, of which I was a member and which was chaired by the now shadow minister for financial services and superannuation, Mr Bernie Ripoll, came up with a bipartisan response on how we might go about improving the integrity of financial planning following the Storm Financial collapse and the terrible problems that resulted from that. It was a bipartisan report, and two of the things it particularly looked at were the development of a best interests test for financial planners to ensure they are acting in the best interests of their clients and abolishing the payment of commissions and conflicted remunerations—commissions both up-front and trailing. This legislation does that, and that is exactly what the committee chaired by Mr Ripoll, with the support of the then opposition, the now government, agreed to and that is what we recommended.

The committee went on to have inquiry after inquiry into the many tranches of Minister Shorten’s future of financial advice legislation, and, as Minister Cormann pointed out in question time, only one submission suggested that we have opt-in requirements for clients. That came from the Industry Super Network—they were the only ones who suggested this should happen. Much of what the then government put into FoFA was basically about pleasing their political masters, not about protecting consumers. I would like to refer briefly to the dissenting report of the 2012 inquiry into FoFA. The coalition members of that committee, of which I was then the deputy chair, made the point that there were a number of high profile collapses in financial services across Australia, and we cited Storm Financial, Trio and Westpoint. We could add to that Timbercorp and the Sherwin Group in Brisbane—the list could go on and on. The point is that those collapses happened because financial advisers broke the law then—they behaved in a criminal fashion. They did not meet the requirements—which needed tightening up, I agree, but still they did not meet them. I feel nothing but extreme sympathy for people who have been affected by the like of the collapse of Storm Financial, but getting rid of the red tape in the FoFA legislation and making sure it is easy to use will in no way assist those people. I would quite confidently but sadly stand here and say there will be another rort conducted by someone, but that will not be someone who is acting within these laws—it will be someone acting outside the laws. I spoke to someone recently who had been affected by the collapse of one of these groups, and they said that we should legislate to stop it. We have done what we can to set up a very strong framework, but asking us to stop collapses happening is like asking us to legislate to stop burglary. The people who instigate those collapses, who con investors, are people who are breaking the law—and that was the law before FoFA was introduced.

In our dissenting report we brought up the fact that the current legislation as it stands around best interest duty is at best confused and at worst unenforceable. The Trust Company, who are not exactly a political body, have said:

The best interest duty as expressed in the Bill is a prescriptive duty and will cause confusion and uncertainty in the industry. It is confusing a duty of care on one hand with a duty of loyalty on the other. The Bill attempts to address a duty of loyalty by using standards and rules which are associated with the duty of care. These two duties cannot be confused. It is the duty of loyalty that underpins the fiduciary obligation and it is this duty that should be met.

The Joint Consumer Group have said:
… it may be difficult for courts and external dispute resolution schemes to interpret the duty and there is a risk that their interpretations may not further the government's policy aim.

That being the then Labor government. The opposition can do their damnedest to develop scary monsters at the end of the bed, but in the end these are the expert people who know whether the law relating to best interest duty as the then government put it into place can be enforced. What is the point of a law that cannot be enforced? It is crazy for this scaremongering to continue. This legislation as we have developed it is exactly what we said we would do two years ago. It has been done to assist consumers as much as possible.

Senator XENOPHON (South Australia) (17:07): The Future of Financial Advice reforms legislation under the previous Labor government was not perfect, but it was one I supported because it addressed some yawning gaps in protections for consumers of financial advice—gaps which turned into a chasm of financial disaster for too many Australians. Scandals involving Storm Financial, the Commonwealth Bank's financial planning arm, Timbercorp and Opes Prime have led to massive losses by more than 100,000 Australians, including many who lost their life savings.

Who wants to go back to the bad old days which saw planners inherently conflicted between earning commissions and giving advice in the best interests of their clients? Last week the government released details of its reforms to FoFA, and the Acting Assistant Treasurer has indicated he wants the measures implemented by regulation. This is not good enough. A legislative framework is preferable to relying on regulations, and I look forward to the release of the interim report of the Financial System Inquiry, headed by David Murray, which is due on 15 July. I also look forward to the release later this week of the report of the Senate Economics References Committee inquiry into the performance of ASIC, partly in relation to misconduct at Commonwealth Financial Planning Ltd.

Experts such as Dr Pamela Hanrahan of the Melbourne Law School have called for better targeted reform of not only financial advisers but also custodians, trustees, responsible entities, brokers and dealers. Dr Hanrahan, a former regional commissioner of ASIC, suggests ASIC should raise the bar for the industry by creating a register of dealers, brokers and advisers that are properly qualified and accredited by a professional body with proper disciplinary powers. She suggests advisers must accept a minimum four duties: a duty of care and diligence; an undiluted duty to act in the best interests of clients; a duty to avoid conflicts of interest, including on accepting conflicted commissions; and a duty of full disclosure.

Dr Hanrahan's approach appears sensible. Scrapping the best-interest requirement will only make consumers more vulnerable to being ripped off, so the government is wrong to abandon that test. In addition, the government has left the door open to big institutions earning commissions off some quite complex products—so long as they do not call it 'financial advice'. The distinction between services and products that do and do not attract commissions becomes pretty meaningless—customers can simply be referred to another department, and the institution will retain the business while another staff member earns the commission. Leaving the door open in this way is also a retrograde step, as is the move to wind back 'opt-in' requirements for advisers. If the industry has nothing to hide from its customers, then it has nothing to fear from requirements to get written confirmation that their services continue. This is important because two-thirds of financial services clients are completely passive, and may not even know they are paying advisers.
The government has already gone back to the drawing board with its ill-considered first round of proposed FoFA reforms. I suggest it needs to go back again in a way that will protect consumers and will best avoid any future financial scandals.

The ACTING DEPUTY PRESIDENT (Senator Sterle): The question is that the motion by Senator Dastyari be agreed to.

Question agreed to.

AUDITOR-GENERAL’S REPORTS

Report Nos 47 and 48 of 2013-14

Senator BIRMINGHAM (South Australia—Parliamentary Secretary to the Minister for the Environment) (17:10): In accordance with the provisions of the Auditor-General Act 1997, I present two reports of the Auditor-General as listed at item 11 on today’s Order of Business:

No. 47 of 2013–14—Performance audit—Managing conflicts of interest in FMA agencies: Across agencies

No. 48 of 2013–14—Performance audit—Administration of the Australian Business Register: Australian Taxation Office; Australian Securities and Investments Commission; Department of Industry.

BILLS

Defence Legislation Amendment (Woomera Prohibited Area) Bill 2014

Explanatory Memorandum

Senator BIRMINGHAM (South Australia—Parliamentary Secretary to the Minister for the Environment) (17:11): I table a replacement explanatory memorandum relating to the Defence Legislation Amendment (Woomera Prohibited Area) Bill 2014.

COMMITTEES

Foreign Affairs, Defence and Trade References Committee

Additional Information

Senator BACK (Western Australia—Second Deputy Government Whip in the Senate) (17:12): I present additional information received by the Foreign Affairs, Defence and Trade References Committee on its inquiry into Operation Sovereign Borders.

Environment and Communications Legislation Committee

Report

Senator BACK (Western Australia—Second Deputy Government Whip in the Senate) (17:12): On behalf of the chair of the Environment and Communications Legislation Committee, Senator Williams, I present the report of the committee on the provisions of the Environment Protection and Biodiversity Conservation Amendment (Bilateral Agreement Implementation) Bill 2014 and a related bill, together with the Hansard record of proceedings and documents presented to the committee.

Ordered that the report be printed.
DELEGATION REPORTS
Parliamentary Delegation to the 130th Inter-Parliamentary Union Assembly

Senator BACK (Western Australia—Second Deputy Government Whip in the Senate) (17:12): by leave—I table and present the report of the Australian parliamentary delegation to the 130th Inter-Parliamentary Union Assembly, held in Geneva, Switzerland, and bilateral visits to the United Arab Emirates and Singapore, which took place from 9 March to 23 March 2014. I seek leave to move a motion in relation to the report.

Leave granted.

Senator BACK: I move:
That the Senate take note of the document.

Question agreed to.

DOCUMENTS
Tabling

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

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

BILLS
Asset Recycling Fund Bill 2014
Asset Recycling Fund (Consequential Amendments) Bill 2014

First Reading

Bills received from the House of Representatives.

Senator BIRMINGHAM (South Australia—Parliamentary Secretary to the Minister for the Environment) (17:14): I move:
That these bills may proceed without formalities, may be taken together and be now read a first time.
Question agreed to.

Bills read a first time.

Second Reading

Senator BIRMINGHAM (South Australia—Parliamentary Secretary to the Minister for the Environment) (17:14): I move:
That these bills be now read a second time.

I seek leave to have the second reading speeches incorporated in Hansard.

Leave granted.

The speeches read as follows—

ASSET RECYCLING FUND BILL 2014

The Asset Recycling Fund Bill 2014 and consequential amendments establishes a new fund as a vehicle for providing financial assistance and incentives to States and Territories to invest in infrastructure.
The Asset Recycling Fund will support the Asset Recycling Initiative. It will assist the States and Territories to sell existing assets and allow the sale proceeds to be reinvested into new infrastructure. The Fund will also facilitate the Government’s investment in nationally significant infrastructure projects.

The Asset Recycling Fund is part of the Government’s infrastructure package announced in the 2014-15 Budget to support economic growth.

Under the Bill, the Asset Recycling Fund will receive an initial contribution of $5.9 billion at commencement, comprising of:

- $2.4 billion of uncommitted funds from the Building Australia Fund; and
- $3.5 billion of uncommitted funds from the Education Investment Fund.

Further credits will be made to the Asset Recycling Fund in the future, including the proceeds from the sale of Medibank Private.

The capital and earnings of the Fund will be available to fund new infrastructure priorities.

Payments from the Fund will be made to the States and Territories for investment in infrastructure under National Partnership Agreements. The Fund will also accommodate other infrastructure payments, to be administered by the Department of Infrastructure and Regional Development, including $350 million for the Roads to Recovery Programme.

The Asset Recycling Fund will be invested and managed by the Future Fund Board of Guardians, which has a proven track record of managing investment portfolios on behalf of the Government, and maximising returns over the long term.

The Bill requires the Finance Minister and Treasurer to issue directions to the Future Fund Board to articulate the Government’s expectations for how the Fund will be managed and invested by the Board.

The Asset Recycling Fund will support the substantial infrastructure package announced by the Government in the 2014-15 Budget. This package is part of the Government’s investment in building Australia’s infrastructure, improving productivity and building a stronger, more prosperous economy.

ASSET RECYCLING FUND (CONSEQUENTIAL AMENDMENTS) BILL 2014

The Asset Recycling Fund (Consequential Amendments) Bill 2014 facilitates the establishment of the Asset Recycling Fund through amendments to the:

- COAG Reform Fund Act 2008;
- Future Fund Act 2006;
- Nation Building Funds Act 2008; and
- DisabilityCare Australia Fund Act 2013.

Debate adjourned.

Social Security Legislation Amendment (Increased Employment Participation) Bill 2014

Assent

Message from the Governor-General reported informing the Senate of assent to the bill.
REGULATIONS AND DETERMINATIONS
Bankruptcy Amendment (2014 Measures No.1) Regulation 2014
Bankruptcy (Fees and Remuneration) Determination 2014

Disallowance

Senator WRIGHT (South Australia) (17:15): I seek leave to move two motions together.
Leave granted.

Senator WRIGHT: I move:


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

I also move:

That the Division 2.11 of the Bankruptcy (Fees and Remuneration) Determination 2014, made under subsection 316(1) of the Bankruptcy Act 1966, be disallowed [F2014L00367].

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

As the instigator of these disallowance motions, I rise to highlight exactly what they will disallow. I urge the Senate to disallow these provisions. In so doing, the Senate will send a clear message that we are looking out for vulnerable people in Australia.

Last year's Mid-Year Economic and Fiscal Outlook, MYEFO, directed the Australian Financial Security Authority to recover its own costs by introducing a new $120 fee for people who apply for a debtor's petition. What is a debtor's petition? It is a form of voluntary bankruptcy. A person files for a debtor's petition when their debts are insurmountable, when all other options have been exhausted and when they have finally—often after a long, protracted period—decided to take control of their own finances by filing for this form of voluntary bankruptcy.

In coming to the decision to move this disallowance, I have been closely consulting with consumer advocates and financial counsellors, in particular the representatives of Financial Counselling Australia and the Consumer Action Law Centre who brought the consequences of this fee to my attention. Many of us in this place will not have personally experienced the stress and worry that others face as they struggle to get on top of stifling debts. No doubt some of us in this place have faced or will face such a situation, but I think there would probably be fewer here than in other parts of Australia. The debts some people face are impossible to deal with and are a constant living nightmare—people can often see no way to get out of the financial nightmare they are in.

Some Australians are in the midst of that nightmare right now. Just last week in South Australia, I met with some financial counsellors who told me about the experiences of a couple of their clients. One of them told me about a man who had developed a serious physical illness, a debilitating illness. He, along with his wife, had been running a small business. He had been struggling to continue with the business and to pay his mounting debts. He was initially very unwilling to consider bankruptcy, because he considered his debts his
moral responsibility to repay. But the situation was becoming increasingly hopeless. There was no end in sight—either in recovery from his illness or in resurrecting his business. He finally came to a decision to petition for bankruptcy, but this fee, which came into effect on 1 April, was one more impediment—after the long series of steps he had taken in coming to that decision—and once again the situation seemed hopeless to him.

What these financial counsellors were at pains to convey to me—and they have been doing so all along—is that people do not undertake voluntary bankruptcy lightly. There is still a strong sense of shame and stigma in Australian society for people who have had to publicly acknowledge that their financial circumstances are out of their control. So people usually only go into voluntary bankruptcy after a long process of consideration and a series of steps. With that final decision—which they always make on a personal basis; the counsellors give them the options, but it is always the decision of the client—there often then comes a sense of relief. They start to have a sense that they are reasserting control over their lives, that there is a light at the end of the tunnel. However, what I have been consistently hearing from these representatives of vulnerable and marginalised people is that this final fee, this fee of $120, was just one more impediment—and often, in fact, impossible.

For people on our incomes, $120 may seem little more than a meal out, perhaps. But there are many people in Australia who are struggling on low incomes. I am not even talking about people on fixed incomes, on pensions; I am talking about people on below average incomes who would find it impossible to find $120 in their budget for this. People who are contemplating bankruptcy, of course, are at the end of the spectrum where they have no hope of being able to control their finances. So where do they find this money? Can they put it on a credit card? Probably their credit card is one of the debts they have not been able to manage. Even if they did have some credit limit available, arguably it would be fraudulent to use the card for that fee—because they would know, at the time they put the fee on the credit card, that they would have no means of repaying that credit card debt. We know about the risks of going to payday lenders and the exorbitant interest rates they charge. Or do they go to an agency—an NGO somewhere—who can support them to find this fee? At best that is just cost shifting, but increasingly, in the current environment, it is not going to be possible anyway.

Financial counsellors have been telling me that those who truly need to go bankrupt may be, ironicaly, the very people who cannot afford it. I am told that, since the fee was introduced on 1 April, just after the Senate rose from the autumn sittings, it has already made it harder and more complicated for vulnerable people to decide to file a debtor's petition. It has already acted as a disincentive. In fact in Senate estimates in May I questioned the authority about this, and the authority's own figures confirm this. It is difficult to draw conclusions after a short period of time, of course, and there are seasonal factors from year to year and numbers go up and down, but certainly the number of people filing for a debtor's petition has decreased since the fee was introduced.

The alternative, if a person cannot take this step to resolve their nightmare situation where debts are just insurmountable, is to live with the anxiety that someone else may well then force your bankruptcy at any time. Any of your creditors can do that, and of course that means it is out of your control and you do not know when the blow is coming.

I now want to deal with a few furphies that are floating around. We know that there is a common perception that bankrupts are perhaps high-flying entrepreneurs who had one luxury
vehicle too many—maybe people like the Christopher Skases of this world will come to mind—but in fact that is just not an accurate representation of the sorts of people who are needing to make this difficult decision. AFSA's own figures show that this is false imagery. They show that unemployment is by far the biggest cause of personal bankruptcy in Australia, and that most people earned less than $30,000 in the year before they ultimately became bankrupt.

Forcing people to live with debt that they cannot repay is not only unfair, but it is bad for the business sector and the economy. That is why the business sector, especially those who are common creditors, is on the record as saying that the fee should not be introduced because continued accessibility to an orderly, methodical means of resolving an ongoing situation like this, and to bankruptcy, not only supports debtors but also creditors and the entire financial system. They know that a very real consequence of this filing fee is a reduction in the number of debtor's petitions filed.

The Australian Greens stand with people on low incomes, consumer advocates and the business sector in saying that this fee is not acceptable. That is one of the reasons we are disallowing these instruments. It is an unfair and rather unsophisticated way to recover costs. The introduction of the debtor's petition fee hits disadvantaged people the hardest, quite obviously. Often they will have no other means to support themselves, and it is happening in the wake of a federal budget that we know is going to have increased adverse effects—it is a cruel budget—on people who are already struggling, such as the unemployed, older people, single parents and people who are already doing it tough. We know that these people are already in trouble. With cuts to services, cuts to benefits and the proposal that young people under 30 who are not earning or learning go without income support for six months, the conditions are ripe to see an increase in the number of people who will be facing the incredibly difficult decision to file for bankruptcy.

The Australian Financial Security Authority, which is introducing this fee, at the government's direction, has published figures showing the profile of those who this fee would affect. Unemployment or loss of income has consistently been nominated as the most frequent cause of insolvency for non-business related bankruptcies since 2003. In 2011, the majority of bankrupts who owed less than $5,000 were not employed at the time of bankruptcy and had low-level utility debt.

As the Australian Greens spokesperson for legal affairs, I have fought for people's access to justice. Despite successive governments' obsession with full cost recovery, increasingly, the Greens believe that institutions like courts, tribunals and bankruptcy in Australia provide an essential service in ensuring that people have avenues to pursue their legal rights. I think the assumption that essential services such as these should earn back their own costs needs to be questioned. When the Labor government raised Federal Court fees, the then shadow Attorney-General and now Attorney-General, Senator Brandis, called it another disguised Labor tax. But the messaging has changed now that he is the Attorney-General and is looking at the same thing in relation to courts and so on.

Financial counsellors emphasise that no person makes the decision lightly to go bankrupt. It is considered as a last option, but an appropriate one in some cases. As a result of the Greens moving of a notice to disallow these regulations, a clear message has been sent that the Australian Greens are willing to heed the policy advice of those people who are currently...
working to assist some of the most vulnerable people in Australia. As a result I have had the opportunity to make the case to the Attorney-General's Department and to representatives of the Attorney-General himself. I do want to indicate that there has been a series of productive meetings where representatives of Financial Counselling Australia and the Consumer Action Law Centre have been able to strongly advocate against the introduction of this new fee and have painted a picture of its detrimental effects on their clients. They have been able to put to the government that instead of closing the debt recovery loop by hitting the most financially vulnerable people in Australia, the government could look at other options—for instance, to nuance the realisations charge, which applies to all administrations under the Bankruptcy Act.

The Financial Counsellors Association and the Consumer Action Law Centre, which is a community legal centre, are highly respected and highly expert people in the area of dealing with consumer credit issues with vulnerable people in Australia. I do find it somewhat ironic that they have indeed, I suppose you would argue, been engaging in advocacy by taking their combined experience with the effects of law changes on their clients and making a strong case about changing the law in a better way so that their clients are not disproportionately affected. Ironically, given the new mantra from the Attorney-General that funding for these sorts of organisations, particularly community legal centres, should not ideally be used for advocacy and instead should be used for front-line services, it would mean that perhaps in the future this advocacy may not be so possible, or the representatives of those organisations may have to do it on their own time, which would mean that the meetings perhaps would have had to have occurred outside business hours. But in any case there was an opportunity for these representatives to meet with representatives of the Attorney-General's Department and the Attorney-General and make the case about this particular change, which is to impose a $120 fee that had not been there before, against the evidence in other countries that the fee becomes shifted and creditors end up bearing the cost, or else it shifts to other government agencies. They were able to make that case.

I do have an understanding that in fact there may be action coming forward on the part of the government to indeed waive that fee entirely and to find some other means of cost recovery, perhaps by increasing the asset realisation charge with a review to see how that is going ahead. If that is the case, I would certainly welcome that. That would certainly be something that would ameliorate the worst aspects of this fee as it has been indicated and conveyed to me and the Attorney-General's representatives. In that case, it may be that there will not be a need to look at disallowing a fee further in the future. We will wait and see what comes out of that. But if that is the case, then I would like to think that this has been a good example of a process whereby good policy can be pursued on the basis of information and evidence coming forward.

Just to finish, I would say that the Australian Greens do urge the government to nuance its cost-recovery measures with AFSA in a way that provides real relief and good policy for those people who are making the most difficult decision to file for a debtor's petition and which indeed provides a genuine benefit to the Australian community, including the business and finance sector. I move that the Senate supports this motion.

**Senator SINGH** (Tasmania) (17:31): I rise to also support this disallowance motion. I think Senator Wright has outlined clearly some of the reasons why this new fee is unfair. It is unfair on debtors. We know very well that voluntary bankruptcy is an important last-resort
option for those who are unable to pay back unmanageable costs. It does happen; it is not something that people take lightly, but it is an option there. That is an important option. It still carries with it a very serious social stigma. Therefore, financial counsellors know when they deal with clients the awful effect of what that will mean for their clients that they are providing advice and support to, and therefore they do not make that decision lightly. It is not a course taken lightly at all.

Bankruptcy offers an orderly process in which all creditors are able to recover some of their outstanding debts, without costly debt collection and legal fees. That really is the key: without those costly collection and legal fees, it enables debtors to deal with their financial difficulty with some dignity. It is something where, whilst they do not take the decision lightly, it is in a sense a clearing of the decks and it allows them to start anew or start afresh. In doing that now, there is obviously this new fee on bankruptcy itself. It just makes those already at their rock-bottom face just another very hard financial hurdle. Yes, $120 may not sound like a lot; but when you already have however many hundreds or thousands of dollars of debt, a burden on top of that is simply probably too much to bear.

As Senator Wright pointed out, we are not talking about high-flyers here. We are talking about people who are often at their rock-bottom. People who opt for voluntary redundancy are often on incomes of less than $20,000. They are those poorer members of our society. On this level of financial hardship, with this $120 fee, for some of those people—if you think about it, they are on an income of $20,000 or less—that would be 30 per cent of their weekly income.

Those considering bankruptcy often have difficulty at things that we take for granted every day. They are things like being able to pay their rent. It is their basic expenses like rent, food, transport and the like. I was actually at the Fitzroy community legal centre last Friday and we were talking about this very matter. Some of the clients, some people that they support and deal with coming through their doors, are people facing financial hardship. It often does start with losing your job. This kind of downward spiral can occur from thereon in, where people end up getting into debt because they have not had that opportunity to find another job and the debt then keeps piling up. Their rent keeps becoming due, they need to get food on the table, there are transport costs, they may have a car, and it just keeps going on and on. You think about someone's life and how easy it is, if they were already on a low income, for them to end up in a debt situation.

I think that the government here has various options for recovering the costs of administering bankruptcies and I do not think the current option that they have is the right one at all. I do think it is unfair. I think the recovery of a small amount of revenue for government should not come at the expense of some of the most desperate people in our country. That is really what we are talking about here and that is why I think this disallowance motion is really important.

In a sense, this new fee has the absurd effect of rendering some of those in financial hardship—that is, some of those debtors—as too poor to go bankrupt. It is a bit ironic, but that is really where they end up. I would think that a lot of them do not have access to a line of credit if they are declaring bankruptcy. They would be in a position where they would be compelled to pay a fee with funds derived from wherever else they have them. Obviously, for a lot of those people who are on very low incomes, the only area from which they could derive funds to pay such a fee would be their welfare payments. So, if they are paying this
$120 fee from their welfare payments, how are they living? How are they providing themselves with food and ongoing needs such as shelter and the like? There are also charitable institutions. But, surely, we do not see the role of charitable institutions as one of providing those in need with money to pay a government fee. This is not the role of charitable institutions. Basically, they are the only two options that I can think of for people who are on very low incomes and who are in the situation of declaring bankruptcy. They would be the only two options that people would have to try and find the money to pay this absurd fee.

Senator Wright commented on discussions and so forth with the Attorney-General's Department, I think it was, and that there might be some movement in relation to this fee. The government might be reconsidering its options of how to recover such a fee. With whatever the government is going to be looking at, if that is a real outcome then it is fantastic; it is really good. It shows that this disallowance motion has certainly been worth its weight in gold in bringing about a change that will have an effect out there in the community for those people most in need.

We also need to consider this issue in terms of the financial hardship currently facing a number of people who are on low incomes. We have already outlined that people do not take lightly the idea of having to go down the voluntary bankruptcy path; but, at the same time, if they are now going to face cuts to basic welfare payments that they have had to sustain themselves when they have lost a job then how is this fair and how are they going to be able to get back on track? I am thinking here of the indexation of the pension and also of young people who are seeking Newstart. Those who lose their job will not be able to access a welfare payment. If they have already got some kind of debt that they have been unable to pay and then there is not even a welfare payment there to support them—the safety net that it is—then how are they going to get ahead and move on until the next job comes around the corner? This is reality for a lot of people. It is not a matter of someone just knocking on their door and offering them a new job. When you lose a job it does take time, often, in between jobs—before a new one comes around the corner. It is at this crucial point that people can fall off the edge in relation to their financial situation. They find themselves without any savings, living on a low income, having to pay rent, food and ongoing transport costs and the like and not being able to make ends meet.

Labor want to ensure that we have a safety net for people in this country, and that is why we have made our position very clear on the government's budget: it is a very unfair budget. Couple the budget with that fee for those people who have to make the really hard choice of declaring themselves bankrupt. It is just a ridiculous proposition to have someone too poor to declare themselves bankrupt because of a $120 fee that they have to pay.

Senator Wright also touched on the issue of cost-shifting to creditors or other agencies. This is another factor that the government needs to consider; it is another potential from this policy. It is one thing for governments to come forward with policy ideas to raise more revenue but they really need to think about who they are targeting. In this case, they are targeting some of the most vulnerable, lowest income Australians, who really deserve to be given a bit of support to get back on track so that they can again become contributors to our society, as much as they wanted to do in the first place. We support this motion.

Senator BOYCE (Queensland) (17:42): The Abbott government is determined to repair our budget and to put Australia on a path of sustained prosperity and this, as I hope everyone
has realised, requires some tough decisions to ensure that the load is shared fairly and responsibly. Accordingly, our budget will protect the most vulnerable members of our community.

We were pleased to work with Senator Wright to address concerns about the fee imposed on debtors who wish to file for bankruptcy. The government will not be opposing these disallowance motions, but it will mean that the cost of administering insolvent estates must be recovered from elsewhere in the insolvency system. This system plays an important part in the regulation of business and in fostering a flourishing economy in which investors and consumers can have confidence. Ironically, it is important to ensure the ongoing viability and integrity of the insolvency system. So the outcome of the proposed disallowance motions is that even more of the burden will be passed on to creditors through an increase in the asset realisation charge. The charge will be gradually increased to seven per cent from 4.7 per cent. It moves to six per cent on 1 July.

I hope people realise that creditors already bear heavy burdens in the insolvency system. They are the other side of the coin to those people who need to go into bankruptcy. While the distress associated with going into bankruptcy is huge, it is important to remember that creditors are not all from what Labor and the Greens would call the 'big end of town'. They are not all big banks and big businesses. Creditors include sole traders such as hardworking tradespeople—electricians, plumbers and the like. They include husband-and-wife businesses and many other sorts of small businesses. Even parents and siblings who might have gone guarantor for a loan for a car or something like that can be affected. The other side of the coin is the harm that can be done to creditors by bankruptcy.

With this in mind, the government will monitor closely the effects of the increased asset realisation charge to ensure that the insolvency system remains viable and that the burdens of insolvency are shared fairly.

Question agreed to.

BILLS

Infrastructure Australia Amendment Bill 2013

Second Reading

Debate resumed on the motion:
That this bill be now read a second time.

Senator BILYK (Tasmania—Deputy Opposition Whip in the Senate) (17:45): Before I was interrupted for question time and other business I mentioned that the Infrastructure Australia Amendment Bill 2013 went through 20 drafts but that there was no consultation by government with Infrastructure Australia. I still find it quite unbelievable that there were 20 drafts but that Infrastructure Australia were not consulted at all. It is quite unbelievable. I have spoken about this government's inability to consult before making policy, but this certainly takes the cake. Not only did it fail to consult Infrastructure Australia; it did not consult any of the relevant parties outside government. To propose such major changes to Infrastructure Australia without consulting anyone outside government shows an absolute arrogance and lack of forethought, which the Australian people are very rapidly becoming annoyed about. At the very least, the government should have undergone an exposure draft
process. But the Abbott government has a history of failing to consult, which unfortunately I do not think is likely to change.

Infrastructure Australia's evidence is more damning than just a failure to consult. Mr Deegan's submission states:

The Deputy Prime Minister's objectives and principles concerning the organisation's independence and transparency in decision-making deserve wide support.

Some of the provisions in the Bill are consistent with these objectives and principles. Others unfortunately are not - indeed, some proposed new provisions appear diametrically opposed to those objectives and principles.

I repeat: ‘… some proposed new positions appear diametrically opposed to those objectives and principles'. Is that why the government did not ask Infrastructure Australia for advice on reform of its own governance structure, or is it because they might have pointed out exactly what Mr Deegan pointed out in this submission—that the new provisions in this bill appear to be diametrically opposed to the stated aims of this bill, that this bill does not do what the explanatory memorandum says it will do but the exact opposite? As we on this side know, the government have a history of saying one thing but doing another. But to say the stated aims of the bill do one thing while the provisions of the bill do the exact opposite is an extraordinary act of hypocrisy, even from those opposite. Didn't they expect anyone to look at the bill?

The bill that was presented to the House and passed by the House sought to gag Infrastructure Australia through the now deleted section 5D. This section was to provide, and I quote from Mr Deegan's submission again:

… that Infrastructure Australia is not permitted to publish, unless it has a written direction from the Minister:

- its evaluation of project proposals under proposed section 5A,
- any evidence relied on in the preparation of any output, including national infrastructure plans,
- the reasoning by which it reached its conclusions in any evaluation of any proposal, or in deciding the Infrastructure Priority List or preparing a national infrastructure plans, or even
- its conclusions.

The submission goes on to state:

It is possible that the Minister will give a carte blanche direction to Infrastructure Australia to publish all this material. But even if the Minister does so, the provision makes any claimed independence or transparency an illusion.

The submission states that section 5D(1)(b):

… makes whatever Infrastructure Australia does secret unless the Minister directs otherwise.

Well, we are getting pretty used to secrets from those opposite. This section would have prevented Infrastructure Australia from giving the Australian people advice on the infrastructure needs of this country without the express permission of the minister. Infrastructure Australia would have been able to inform public debate on the infrastructure needs of this country only if their research and recommendations were ideologically consistent with the views of the minister. It is despicable that those opposite would seek to gag a body like Infrastructure Australia in such a way, and I am glad that Minister Truss has come to his senses and has at least deleted this section.
The government talk about making Infrastructure Australia more independent, but their actions conflict with their statements. The minister has already sought to move aside the Infrastructure Coordinator, Mr Michael Deegan, putting him on 'gardening leave', for the evidence he gave the Senate inquiry into this bill and for other criticisms of the government's infrastructure announcements. He has replaced him with an acting infrastructure coordinator, Mr John Fitzgerald. Unfortunately, Mr Fitzgerald may not be the best replacement. With regard to the East West Link in Victoria, Mr Fitzgerald put out a release on 29 April saying that it was a 'meritorious project'. In Senate estimates he indicated that, as a Victorian official of Treasury but also as a private consultant for KPMG doing work on this project, he advocated for the project. Unfortunately, in my book you cannot be both independent and a paid consultant at the same time. Mr Rod Eddington, the former Chair of Infrastructure Australia, has been replaced by a former Liberal minister, the Hon. Mark Birrell. This is just a case of jobs for the boys and a clear example of the Abbott government politicising Infrastructure Australia. The Australian people deserve much better than that—much, much better.

The bill that passed the House of Representatives sought to prevent Infrastructure Australia from performing its fundamental role of investigating projects and future infrastructure needs through the now deleted section 5A(2). Again I would like to quote Mr Deegan's submission to the Senate committee:

The proposed section 5A(2) empowers the Minister to determine by legislative instrument a class of proposals that Infrastructure Australia must not evaluate.

The rationale and policy intent behind this provision has not been explained.

Use of proposed section 5A(2) is likely to be interpreted as minimising scrutiny of the business case for certain projects - or perhaps a wide class of projects such as proposals for the Commonwealth to fund public transport.

Section 5A(2) was put in there to ensure that the minister could prevent Infrastructure Australia from scrutinising projects that the government wants to approve—unwarranted infrastructure projects in Liberal-National marginal seats, for example—or to prevent proper investigation into projects that would be beneficial to the nation but that the government is ideologically opposed to. As with other expert bodies that provide advice which this government finds inconvenient, the coalition once again tried to limit what could be researched in order to minimise their own embarrassment and protect their own ideology. I am glad the minister has also deleted this provision from the bill that has come to the Senate. I am pleased that in the bill we are debating today we are returning to the provisions under the current act which permit ministerial directions of a general nature only.

Labor is also putting forward amendments which will ensure that Infrastructure Australia retains the power to approve tax concessions for private sector co-investment in nationally significant infrastructure projects. This reform, brought in by the Labor government in the 2012-13 budget, aims to increase private sector involvement in major projects. The government proposed that this role be undertaken by a delegate of the minister, potentially outside Infrastructure Australia. Labor's amendment leaves this to the infrastructure experts within Infrastructure Australia.
We know those opposite are climate change deniers. That is why they have decided to delete the existing function to provide advice on infrastructure policy issues arising from climate under the government's changes. We on this side feel that this is a mistake and are opposed to this move. We know that the effects of climate change will have a significant impact on our future infrastructure needs. I was having a chat to my Tasmanian colleague Senator Polley, who is in the chamber and who has a bit of a background in shipping and transport. She was saying climate change is especially relevant, for example, when giving advice on ports and bridge heights. Labor's amendments will allow Infrastructure Australia to retain this important function.

The government proposes to remove the current function for Infrastructure Australia to review alignment of government funding decisions with Infrastructure Australia's advice. In the interests of transparency once again, Labor's amendment will retain this function. We on this side of the chamber want to know, and want the Australian people to know, that spending on infrastructure actually meets the nation's needs. I am glad that the government has made the changes that they have, but I call upon them to also agree to these sensible amendments.

Having world class infrastructure in the most appropriate places is the key to Australia's future prosperity and it is too important for our nation for those opposite to politicise Infrastructure Australia for short-term political gain. Since its creation in 2008, Infrastructure Australia has overhauled, and has driven lasting improvements to, the way Australia plans, assesses, finances, builds and uses the infrastructure it needs to compete in the 21st century. Its achievements include: (a) completing the first ever infrastructure audit; (b) putting in place a national priority list to guide investment into nationally significant projects which offer the highest economic and social returns, with the former Labor government committing funding to all 15 projects identified as ready to proceed; (c) developing national public-private partnership, or PPP, guidelines to make it easier and cheaper for private investors to partner with governments to build new infrastructure; (d) finalising long-term blueprints for a truly national, integrated and multimodal transport system capable of moving goods around as well as into and out of Australia quickly, reliably and efficiently, including the National Port Strategy, the National Freight Strategy and more recently the Urban Transport Strategy; and (e) conducting pilot work on improving governance and developing rigour around evidence-based road funding.

This bill fails to deliver on the coalition's promise to ensure better infrastructure planning and more rigorous and transparent assessments of taxpayer-funded projects. This is because the government do not want rigorous and transparent assessment of taxpayer-funded projects, because it is not in their own political interests. Unfortunately, the coalition government has a bit of form on politicising infrastructure projects. I quote from the Australian National Audit Office's performance audit of the Regional Partnership Program:

ANAO analysis revealed that ministers were more likely to approve funding for 'not recommended' projects that had been submitted by applicants in electorates held by the Liberal and National parties and more likely to not approve funding for 'recommended' projects that had been submitted by applicants in electorates held by the Labor party.

Unfortunately, we have already seen from this government, which has been in power for less than a year, a similar willingness to skew projects towards their own electorates while cancelling projects in Labor-held electorates. A recent article in The Age highlighted that in...
the Abbott government's 2013-14 budget, of the new projects announced and funded, just under three-quarters were in coalition electorates. Monash University Professor of Transport Graham Currie was quoted in the article:

Professor Currie said Australia's independent body for infrastructure decisions, Infrastructure Australia, was not being used by the current government to decide which projects to fund.

"The question is whether they want to be a professional government or they want to pork barrel, and whether we'll forge the idea of trying to be professional about how we manage resources or just do it on a political basis.

"I don't think that's how a country should be run."

I have to say that I agree with Professor Currie: I do not think that is how a country should be run either.

The article also looks at the existing projects which have received more funding in the budget, including the— (Time expired)

Senator GALLACHER (South Australia) (17:57): I rise to make a contribution in the Infrastructure Australia Amendment Bill 2013 second reading debate. By way of starting, I followed the Infrastructure Australia debate through the Senate estimates process over a couple of years and noted with particular interest how much attention Infrastructure Australia received. In particular, its CEO, Mr Deegan, received a great deal of attention. I can concur with Senator Macdonald on at least one issue, and that is that Infrastructure Australia was well represented by Mr Deegan. He attended Senate estimates without a platoon or squadron of advisers and, in my view, was very forthcoming and forthright in his answers. So, for me, a rare moment of agreement with Senator Macdonald.

I think it is worthwhile to go over the history of infrastructure and in particular Labor's history of infrastructure. I think that it was around 2005 that the Australian Labor Party announced it would establish Infrastructure Australia if elected. On 2 August 2007 the then leader of the opposition, Kevin Rudd, detailed his plans for Infrastructure Australia, stating that it would have three divisions: one division to deal with policy and regulatory issues and drive reform on legal, tax planning and infrastructure finance matters; a division to audit the adequacy of the nation’s infrastructure, identify weaknesses and prioritise projects; and another division to evaluate the business cases of projects, project financing options, including private public partnerships, and to manage the probity process. A reasonable person would conclude that that is not particularly skewed in any way; it seems like basic common sense. When you look at the Prime Minister's avowed intention to be the infrastructure PM, you would probably think that it was not a bad starting point, even though it was said by Kevin Rudd or set up by the then opposition. The average taxpayer and voter would expect there to be a business case, probity, an evaluation of projects and financing options.

In Australia the responsibility for infrastructure is spread across the three tiers of government and the private sector, and so the burden of both funding and physical provision of infrastructure lies overwhelmingly with the states. The Commonwealth provides grants to the states and local government to fund infrastructure, but the states and local government are responsible for the physical provision. Now we have the private sector becoming increasingly involved in financing construction and operations. In that environment, surely you would start
with a sound, logical and well-thought-out base—probity, evaluation, business case and those sorts of things.

We know that Infrastructure Australia did an audit of all of Australia's infrastructure needs; that it did business cases and identified projects as ready to go. That would seem to be an eminently reasonable use of taxpayers' money and the use of good intelligence, good planning, good skills, good input from all sectors. I would have thought that was a reasonable basis for any government to go forward. But look at the coalition's policy of 5 September, where they claimed that only the coalition would deliver the infrastructure of the future. They deliver their claim:

If you vote for the Coalition, you know what we will deliver. We deliver infrastructure projects across Australia, including:

- $6.7 billion to fix the Bruce Highway;
- $5.6 billion to complete the duplication of the Pacific Highway from Newcastle to the Queensland border;
- $1.5 billion to get Melbourne's East West Link underway;
- $1.5 billion for Sydney's WestConnex;
- $1 billion for the Gateway Motorway upgrade in Brisbane;
- $615 million to build the Swan Valley Bypass;
- $686 million to finish the Perth Gateway without a mining tax;
- $500 million for the upgrade of Adelaide's North-South Road Corridor;
- $405 million for the F3 to M2 missing link;
- $400 million to upgrade the Midland Highway in Tasmania; and
- $300 million for the Melbourne to Brisbane inland rail freight line.

Some of those projects may have gone through the Infrastructure Australia process with no problem at all and some may well be among those projects earmarked ready to go.

There was a very clear, precise, well-thought-out base in Infrastructure Australia from which any government, whether we continued or the incoming Liberal government, could have simply gone forward using taxpayers' money in an eminently reasonable way by getting a business case up, getting the approval through, doing the necessary arrangements with state, local and private partnerships, if they were part of the equation. But we did not get that. During estimates I detected a great degree of antipathy for Infrastructure Australia, particularly from those senators from the National Party. I did not really understand at the time why they were asking about the view from the boardroom or how much the boardroom cost or how much was spent on lunch. All of these questions were designed to impugn or disparage the way Infrastructure Australia was conducting itself. If we delved into it a bit deeper, we may well come to the conclusion that politicians, being what they are—and I am one as well—would like the authority to spend money where they wanted them to. What Infrastructure Australia did was to put in some discipline: there had to be a business case, key performance indicators and it had to stack up in the national interest. The project had to be something very productive.

One of the most productive outcomes for Infrastructure Australia is the Western Ring Road in Melbourne. The Keating government put about $550 million into it. It transformed the ease
of access in Melbourne by freeing up congestion and helping people get around easier, but, more importantly, it put up the business case for someone in West Melbourne in an old site which constrained their efficiency being able to move when the ring road was in place. The value of the land in West Melbourne compared with the land around the Western Ring Road meant they could move for no cost. So they became more efficient, but they still could get to the port and their customers, and they had new premises. That is real productivity. Mr Abbott says in this document:

I want Australians to spend less time in traffic gridlock on our roads and more time with their families. That is fine; everybody wants that. These infrastructure projects cannot be assessed on the basis of traffic gridlock. They have to be assessed on the genuine economic prosperity they bring or open up. Very clearly, infrastructure projects like the Western Ring Road have demonstrably done that. That project took a long time to get off the ground and it is the subject of massive funding now—something like $2 billion is being spent on upgrading it. The ring road was built on a proper economic footing

That is what this debate really should be about in this space—it should not be about pork-barrelling, or about allowing the Nationals to have more say on infrastructure. Why have we changed the way that Infrastructure Australia has operated? Has anybody been able to point to any startling failing in the way that it has completed its business? In the report by the Standing Committee for Rural and Regional Affairs and Transport Legislation Committee, the comments of Senator Sterle in his dissenting report are very pertinent:

In a short period, Infrastructure Australia has overhauled and driven lasting improvements to the way Australia plans, assesses, finances, builds and uses the infrastructure it needs to compete in the 21st century. To date its achievements include:

(a) completed the first ever infrastructure audit;

(b) put in place a National Priority List to guide investment into nationally significant projects which offer the highest economic—most importantly—and social returns – and the former government committed funding to all 15 projects identified as ‘ready-to-proceed’;

(c) developed national Public Private Partnership (PPP) guidelines to make it easier and cheaper for private investors to partner with governments to build new infrastructure;

(d) finalised long term blueprints for a truly national, integrated and multimodal transport system capable of moving goods around as well as into and out of Australia quickly, reliably and efficiently: the National Port Strategy, the National Freight Strategy and more recently the Urban Transport Strategy; and

(e) conducted pilot work on improving governance and developing rigour around evidence-based road funding.

So here we had an Infrastructure Australia that was doing a good job, and along came a new government and a new minister and—according to our Prime Minister, Hon. Tony Abbott—a prime minister who wanted to become known as the infrastructure Prime Minister—and the first thing he did was set aside, ironically, all of the infrastructure that was set up to deliver what he wanted, which is true economic and social outcomes worthy of this great nation in which we live.
The reality is that we have probably got down to a bit of pork-barrelling. Basically—and it is unfortunate—this decision seems to herald a return to decisions being made on the basis of politics rather than on the basis of true value for money for the taxpayer in Australia, or the true national interest. This might be dismissed as an idle concern, but I do not believe it is. Minister Truss was a minister in the former Howard government’s Regional Partnerships Programme. That program was heavily criticised by the Audit Office—not by me and not by people on this side so much, but it was heavily criticised by the Audit Office and, clearly, it poorly prioritised road funding decisions. However, the projects involved here are much larger, and this minister will have new power to nominate projects for evaluation—perhaps not now that we have had some consideration of the Labor-inspired amendments. But will there be a less independent, less transparent Infrastructure Australia? I think that is clear. The model that was there was clear and transparent, and it was supported by the bus industry council and a number of other major contributors in this space. What we now see is less clarity, and less certainty about projects and about how they get up—will they really have the transparent tests applied to them? Will it all be published? Or will it be, basically, on the whim of the minister or his department?

What we thought were the strengths of Infrastructure Australia were its transparency, its independence, and its clarity. There was quite an interesting exchange between Senator Conroy and the new Acting Australian Government Infrastructure Coordinator, where the definition of a conflict of interest was brought into play. But with the departure of Mr Deegan, Infrastructure Australia has very clearly lost a bit of its mettle. It has lost a bit of its transparency. It has lost a bit of its strength—because Mr Deegan was not one for telling people what they wanted to hear. I am not saying that the person who has replaced him while he is on alleged gardening leave is saying what people want to hear. But aspersions were cast on the chain of employment that that person had, and on the fact that he may well go back to his previous job—which had people wondering a little whether he could really give truly impartial advice to the minister.

We do not want to say that the Deputy Prime Minister is out there to pork-barrel for his electorate; I do not want to say that anyway. And I do not really mind where the investments are in Australia, as long as they are based on the prudent guidelines that have been in existence for testing projects as to their propriety, their transparency, their economic worth to the nation, and the things that they bring to all of the population. Whether the project is in a National Party seat, a Labor seat or a Liberal seat, I think that if it has gone through the best possible process and can stand up in the cold, hard light of day as an independently arrived at decision, then that is where the investment should be. The Business Council supports the passage of this bill, subject to the amendments being made, or to the withdrawing of positions that give effect to ministerial powers to direct IA not to evaluate certain classes of projects. That clearly should not be in the minister's purview to say, 'Don't evaluate that', because you remove the transparency argument I have just put forward. On the requirement that IA can publish project evaluations and other information only when it is directed to: well, it should be publishing those things anyway; this is taxpayers' money. We pay tax, and we should be able to look, at the end of the day, at where those dollars are going. That should be transparent. And project evaluations should be openly available to all who want to see it.
These are the sorts of issues that had been fleshed out in the debate, and it is good to see that the Deputy Prime Minister, the honourable Mr Truss, will agree to some amendments that put a little bit better case on the situation. But we cannot ever walk away from the fact that there is a significant amount of need for infrastructure in Australia, that there are significant taxpayers' funds invested in infrastructure in Australia, and that the federal government has the guiding role. One of the really disappointing things is this refusal to invest in urban transport. I have been a transport person all my life, and it was always road and rail. There is always a case for rail, and there is always a case for road, there is always a case for freeways and there is always a case for light rail and buses and the like. So, the fact that you steer all of your infrastructure dollars in one particular way may have the effect of skewing away from really good infrastructure in our cities. If a state government, local government or public-private partnership knows that the federal government will not involve itself or invest in urban public transport, then I think that is a bad move, which probably does not meet the transparency test, the real business case test.

We do need to look at roads—most particularly, around our major cities, to free up gridlock. If you look at the South Road redevelopment, it many save only six minutes per vehicle, but if that is 3,000 trucks that are saving six minutes every 24 hours then that is a huge boost in productivity. So, I fully understand that roads are very, very important. But I think it is equally important to recognise the whole transport network and that this government should build on the good foundations left to it by the previous government and have a clear, transparent Infrastructure Australia that has a degree of independence and transparency and delivers for Australia the productivity this country so richly deserves.

**Senator O’NEILL** (New South Wales) (18:17): It is a great pleasure for me to rise and speak on the Infrastructure Australia Amendment Bill 2013. I have known many trainspotters who have a fascination for rail and care about it, and I am thinking of a great friend of our family—my parents were Irish immigrants—Neville Wootton, who would be very pleased to know that his name is being recorded in this place today. He was a fan of the trains and did not live far from Toongabbie station.

An investment in rail and urban infrastructure in terms of rail is an absolutely vital part of our nation's mix moving forward. I second the comments of my colleague here in the chamber, Senator Alex Gallacher, who just made some points about the critical nature of Infrastructure Australia in making sure that that complex and important mix of different types of infrastructure build is constantly considered in a way that advances the entire nation.

But despite Uncle Nev's best efforts to interest me in rail, I have to put on the record that I am the daughter of a road builder; I am the sister of many road builders. And at this time of the evening—it is mid-winter—the lights will be off. Unless there is some emergency on a job and they have gone out and hired lights, probably from Camden Hire or some other agency that they use—another small business industry—they will be on their way home now, having participated in building the roads that will be a vital part of how our community moves around here in this state of New South Wales.

I grew up to be very proud of being a part of something that is national. I cannot tell you the pride that my father felt as an Irish immigrant with a very limited education but a great heart for work and a great interest in machinery. He shared with us his vision for what Australia could be when he spoke about his work on building the Bradfield Highway when he...
worked for Abignano. These sorts of things—this connection with building this country—is a powerful part of our sense of ourselves. Anyone who looks at the Harbour Bridge, whether it is celebrating Australia Day or celebrating New Year's Eve, anywhere around the world, can see that this is a country that had a vision for something powerful in terms of what infrastructure could deliver in advancing our nation.

What concerns me about the legislation that was put forward and is in such need of amendment is that it reveals a government that is backward-looking and miserly in its vision for this country, that is willing to carve out an entire sector of rail and that simply has not understood the way in which infrastructure captures the imagination of Australian people. The Prime Minister is playing at the edges, trying to claim the title of infrastructure Prime Minister. That is only authentic if you are actually going to outdeliver, outspend and outvision anybody who has done it before, and that is certainly not the case in what this Prime Minister is attempting to do, as revealed in this piece of legislation.

What concerns me particularly at this point in time is that infrastructure, under the piece of legislation that the government has put forward, is at risk of becoming a political plaything once again should this bill pass in its current form. Labor de-linked the infrastructure cycle from the electoral cycle. That was a very significant change. Right now we run the risk of the Abbott government returning us to the bad old days of pork barrelling, with Australians in Labor seats or Liberal seats or Nationals seats being left behind. But I fear that the whole construction of this piece of legislation is really to advantage the Liberal seats, even at the cost of the Nats. We are seeing that over and over in piece after piece of legislation coming through the Senate here in terms of education and health, as well now as infrastructure. Infrastructure decisions should not bend to political expediency. Infrastructure decisions should be blind to the electorate they fall in. If done correctly, good infrastructure decision making and investment will benefit every single Australian and not just those in the electorates in which they are funded and located.

It can be difficult for governments to overlook the benefits that may flow from such large expenditure, and we have seen that failure to have a vision for what infrastructure spending can do. We need to preserve this system that was instituted in the last parliament that clearly broke with former bad habits and established a transparent process to create a body which would auspice and determine in the national interest what is best for infrastructure—that body being Infrastructure Australia.

The hallmark of the previous Labor government was delivering nation-building infrastructure. We delivered what the Howard Liberal government refused to build for 11 years. I am just going to refer to the shadow minister's comments on Tuesday, 10 December, when he went through a list of some of the places that were the beneficiaries of the recommendations of Infrastructure Australia. I note many of my colleagues have made comments about the benefits for the electorate of the Leader of the Nationals in the other place, Warren Truss. He has benefited from many of these decisions. This is what the shadow minister, Anthony Albanese, said:

Thanks to the recommendations of Infrastructure Australia, here are some of the projects that the previous Labor government delivered: the Hunter Expressway … major upgrading of the Pacific Highway, worth $7.9 billion, through works including the Bulahdelah Bypass, the Kempsey Bypass and the Ballina Bypass, all opened by Labor; and the Bruce Highway, with funding of $5.7 billion,
including work on what the now transport minister describes as the worst road in Australia, the Cooroy to Curra section of the Bruce Highway.

He went on to say:

Minister Truss would know that because it is in his electorate. He just did not fix it during the 12 years in which he was part of the government.

That is the sad reality of a failure to have looked at the projects that needed funding and to have funded them during that period of great mining benefit to the country when we had money coming in. The Howard government simply lacked the vision and it certainly lacked to the structures to make powerful recommendations about the infrastructure that should have moved forward at that time in the national interest.

We came into government and removed the bottlenecks that the infrastructure-averse Liberal government would not. We did it to secure the productivity gains that drive jobs growth and we did it because we know that you have to invest in roads, ports, railways and airports. When in government it seems the Liberal Party just do not get this. They have an indelible belief that it should just happen and the private sector will make it happen, no questions asked. Or there is the alternative of grabbing the dollars and stuffing them into seats for sheer electoral advantage—the most disgraceful and uncompromising abuse of the power of government.

On this side of the chamber we know that the federal government needs to take a lead in making sure we have a unified and strategic vision about how we build our nation. To do that, Labor created Infrastructure Australia, which is the agency that is being debated at the heart of this piece of legislation. To be the holder of this vision, to remove the politics from these decisions and to do what is in the best interests of the nation is exactly what Infrastructure Australia was created to do and it is exactly what it has done. Let me just restate that: Infrastructure Australia was created to do exactly what we wanted in terms of having a region-blind and electorate-blind vision for advancing Australia's interests. It delivered exactly that.

But within a heartbeat of returning to government the coalition got on those Treasury benches and immediately wanted to take the reins and ride this horse of advantage into its own electorates. It seems that the coalition just cannot help itself except to see dollars in infrastructure as a place from which it can pork barrel. It wants to get rid of an independent body that provides expert advice and overturn a body, Infrastructure Australia, that was especially established to deliver an holistic approach. Instead the coalition just wants to dismantle it and feel free to cherry-pick projects that suit its political will. It is back to the bad old days when infrastructure was not an integrated process but simply a recipe for pork-barrelling.

This bill, without amendment, gives the government complete power and zero transparency. That is not even just on the big decisions. They also in this bill seek to micromanage time frames and the scope of audits and evaluations. The Labor Party will absolutely oppose this shift from transparency to a rule of darkness, hiddenness and uncertainty that smacks of self-interest and distortion of the national interest.

Infrastructure Australia deals with matters that should be open to scrutiny so that the people of Australia can see how the board works and see the projects of merit that it supports and advocates for. It is clear from the legislation it put forward that the coalition wants to
weaken Infrastructure Australia by increasing the power of the minister to interfere in Infrastructure Australia's own evaluation processes. This government wants to be able to order Infrastructure Australia to evaluate particular projects nominated by the minister. Where is the transparency in that? The independent body of Infrastructure Australia should remain independent in the national interest. That is why we will oppose a piece of legislation that seeks to change that unless we have significant amendments to deal with the issues that I have raised.

Along with many of the other very positive aspects of Infrastructure Australia, the government proposes to scrap the tax loss concessions introduced by the Labor government in the 2012 budget. Labor's amendments to these bills will ensure that Infrastructure Australia retains the power to approve tax concessions for private sector co-investment in nationally significant infrastructure projects. This reform aims to increase private sector involvement in major projects. The government proposed that this role be undertaken by a delegate of the minister. Once again, instead of keeping it open and transparent, the government is pulling it back into the minister's realm so that, from on high, some lord, knight or elevated person of the realm can direct the traffic of Australia's infrastructure spending to their own gain and advantage. We cannot go back to that kind of a world.

Sitting suspended from 18:30 to 19:30

Senator O'NEILL: Before the break I was speaking to the Infrastructure Australia Amendment Bill 2013 and pointing out some of the major problems of the coalition's approach to Infrastructure Australia—including the reduction in transparency with a return to the days where ministers can skew the process towards their own pet projects—and the concerns I have about undoing the fantastic transparency gains and the practical and genuine gains for the country of having a vision for infrastructure that extends beyond the boundaries of the immediate and the foreseeable future and beyond the boundaries that can be constructed around individual seats and people's particular interests. I put on the record a little earlier my particular interest in roads, but it is rail that matters, and ports. All forms of infrastructure, and their integration, are vital to the developers of the Australian nation.

I am very concerned that this is a government that seems to have constructed for itself a very poorly defined set of rights around Infrastructure Australia, and such a poorly defined set of rights makes it very easy to sack people. They are giving themselves the power to dispose of advisers whose advice does not suit their political line. In addition to a failure to have transparency, they have constructed a model where they can get rid of advice that does not suit pork-barrelling of the kind that we saw the last time John Howard was in office. I am deeply concerned about the bill's provisions for allowing the Minister for Infrastructure and Regional Development to order Infrastructure Australia not to consider classes of infrastructure when it assesses the relative merits of infrastructure projects. The changes the coalition is seeking to what Infrastructure Australia was doing very well under the former Labor government will reduce transparency and take us a long way backwards.

The federal government has explicitly ruled out funding for urban public transport projects such as the Melbourne Metro, Brisbane Cross River Rail, Perth light rail and Airport Link, and the Tonsley Park rail upgrade in Adelaide. To overtly signal that you are going to cut an entire section out of the development of Australia's infrastructure, to allow these changes to public transport to be excluded from Infrastructure Australia's scope, can only be seen as a
negative and destructive view of the way complex and sophisticated infrastructure and infrastructure in the 21st century needs to be considered in order to advance the nation's interests.

For the coalition government to sit there and give themselves powers to exclude, for no good reason, an entire class of infrastructure can only lead to one thing—gaping holes, massive gaps, in the infrastructure that Australia will need in the future. We have seen the legacy of that from the Howard era, when we had a failure to invest in infrastructure that Labor had to make up for when we got back in. Under the coalition's proposal, expensive projects will be excluded, inconvenient projects will be excluded and projects against Liberal priorities will be excluded. This is not how any good governance model should operate, and it is certainly not the way to build a nation.

Labor's amendments to this bill are very important because they will allow infrastructure experts in Infrastructure Australia to be free to be the experts that they are—they will not have to take advice from a minister who may or may not have some family association with road-building, to which I have already owned up earlier in my speech. The reality is that the independence of Infrastructure Australia is critical to its success and our success as a nation. The problem is further exacerbated by the type of legislation this government have put before us because in the development of their legislation they did not listen to experts. In contrast, we have listened to very important stakeholders like the Business Council of Australia. They might know a few things about building infrastructure for the nation. There was also the Tourism & Transport Forum, the Urban Development Institute, public transport organisations such as the Moving People 2030 coalition—and Infrastructure Australia itself. All have called for enhancements to Infrastructure Australia, but not with additional powers for the minister to shape and interfere with the advice the government and the community will receive.

The explanatory notes for this bill state that the bill will strengthen the role of Infrastructure Australia as an independent, transparent and expert advisory body through a change in its governance structure and through better clarification of its functions. The reality is that the minister opposed the creation of Infrastructure Australia and in this bill he now seeks to control it if it has bolted too far and he cannot completely get rid of it. He is attempting to weaken its independence by reducing scrutiny and independent advice—a backward move. This bill in its current form does exactly the opposite of what the minister is claiming it will do. Why would we be surprised to see that this is a government making an art form of saying one thing and doing another? I am hoping he is doing this because he does not understand the bill rather than because he is being purposefully deceptive, but people will have to make up their own minds about what is going on with this government that is hiding more and more from the Australian people.

Infrastructure planning is about the future—it is about the nation, it is about the community, and we want to build it. For that aim to be realised, a government needs a vision. Cutting, limiting, controlling and removing independent advice is not the sort of policy that is going to deliver a vision of anything good for this country. Under Labor, Infrastructure Australia conducted the first ever national audit of infrastructure needs. Anthony Albanese was, surprisingly and remarkably, the first minister for infrastructure in Australia. Can you believe we had been so unable to see the need for these measures? Since then we have seen an incredible delivery of investment in Australia and so much of our country has changed. We
restored national leadership, we established Infrastructure Australia and we got on with funding the vital projects that changed this nation. Compared with the last full year of the Howard government in 2006-07, annual infrastructure spending under Labor in real terms was up by 50 per cent in the year 2011-12. Total public and private infrastructure spending over federal Labor's first five years in office was almost $250 billion—almost 70 per cent greater in real terms than the $150 billion spent during the last five years of the Howard government.

There is a massive contrast with a limited, miserly and contained version of Australia that those opposite are seeking to force on this country, and the legislation as put by the government needs massive change. Labor believe in the vision of Australia—one that is brought about by transparency and openness. The coalition do not know that. They need to pay attention to our amendments and get on with doing a better job for this country. *(Time expired)*

**Senator STERLE** (Western Australia) (19:38): It is an absolute pleasure to follow on from my colleague and friend Senator O'Neill, particularly after that passionate speech. I too want to make my contribution to the Infrastructure Amendment Bill 2013, and I think it is very, very important that we give a little bit of a history lesson to those who may be out there hanging on every word that is mentioned about this bill. Let's look at infrastructure.

Infrastructure can be a myriad of things, but it is about building this great nation. I come from a different angle, because infrastructure mainly is opening up our ports, our rail lines, it is talking about our roads, about public transport—about all sorts of things. As the deputy chair of the Rural and Regional Affairs Legislation Committee, who undertook this inquiry, I do not want us to lose track of how infrastructure in Australia is funded. It is funded predominantly through the three tiers of government, being local—which in my opinion do a heck of a lot of the heavy lifting—state and federal. Up until the last few years, the funding of a lot of the infrastructure has predominantly been carried by the state governments. But what we did see in the six years of the Rudd-Gillard-Rudd government was massive injections of cash from the Commonwealth into numerous infrastructure projects throughout this great land.

I can give a quick history lesson on some of the nation-building stuff that was done in Western Australia when Minister Albanese had the carriage of the infrastructure and transport portfolio. It gives me grief that in this current government we do not even have a minister per se who is responsible for transport, or even for the word 'transport'. I do not know how seriously we can take that side of the chamber, and certainly Mr Abbott and his cabinet, if they cannot even appoint a transport minister. Fortunately we did have one, and we did very, very well. Some of the massive spends in Western Australia have delivered productivity gains that will last for generations to come, none more so than the Gateway project around Western Australia. For those who have not had the privilege of visiting Western Australia lately, there is construction equipment everywhere around the airport, and in the suburb of Kewdale/Belmont, where our domestic and international airports, our freight hub, our rail head, our warehouse and distribution centres are. This is where the bleeding heart of Western Australia's transport and logistics industry is situated. Finally we West Aussies are being dragged into the 21st century with some wonderful infrastructure initiatives implemented by the previous Labor government.
Let's have a look at how it all started. To do that we will have to go back to about May 2005, when the Australian Labor Party determined it was going to have this body called Infrastructure Australia. Then on 2 August 2007 the then leader of the opposition, Kevin Rudd, detailed his plans for Infrastructure Australia. He said it would have three divisions, and I want to share with the chamber what these three divisions were. The first would deal with policy and regulatory issues, and drive and reform legal, tax planning and infrastructure finance matters. The second would audit the adequacy of the nation's infrastructure, identify weaknesses and prioritise projects. The third division would evaluate the business cases—a very important two words—of project financing, with options including private-public partnerships, and they would manage the probity process.

Unfortunately the clock is against me tonight. I reckon I could talk with a gobful of marbles under water about this for half an hour, but I am not allowed to, and I notice the shadow minister is in the chamber, so I will summarise my contribution very quickly. The last thing we would need, and which was the plan of this government, is to take away the opportunity for Infrastructure Australia to vet these projects. The danger is that allowing the minister the final say on any infrastructure programs could lead us to that shocking situation we were confronted with in the dying days of the Howard government. I cannot remember what the program was called—I think it was called Regional something, but it was commonly referred to as 'Regional Rorts'.

I am not suggesting for one minute that Minister Truss would ever lower his standards to be in the same mould as the previous National Party minister at the time, Mr Anderson. I would make this very clear—Mr Truss is a man of integrity. He must be, because he has seen the common sense here. With Mr Anderson, we got to a stage in the dying days of the Howard government where a certain project worth quite a few million dollars was rushed through so it could deliver an ethanol project somewhere in his seat, I believe, or a Nationals seat—a $1.2 million grant which never ever delivered one single litre of ethanol. In fact, in that dark time of the regional rorting that was going on with National Party seats and some Liberal seats, some 16 grants worth a total of $3.5 million were approved in no more than 51 minutes. That is 51 minutes to approve $3.5 million. In the notes it says 'from 3.25 pm to 4.16 pm'—by then Parliamentary Secretary—

Senator Fierravanti-Wells interjecting—

Senator STERLE: Madam Acting Deputy President, through you—is that Senator Fierravanti-Wells endorsing rorting? Are you endorsing it? Are you endorsing rorting? Have you lowered yourself so far in the New South Wales Liberal right that you endorse rorting?

The ACTING DEPUTY PRESIDENT (Senator Boyce): Order! Senator Sterle, ignore the interjections and direct your remarks to the chair.

Senator STERLE: I will, and thank you for that protection, Madam Acting Deputy President. I feel safer when you are in the chair.

The ACTING DEPUTY PRESIDENT: I am glad you feel that, Senator Sterle.

Senator Fierravanti-Wells: On a point of order, Madam Acting Deputy President: I think Senator Sterle should withdraw that. The point I was making was that, when Senator Lundy was the Minister for Multicultural Affairs, she took less time to sign off $14 million. That is the point I was making.
The ACTING DEPUTY PRESIDENT: There is no point of order.

Senator STERLE: How embarrassing! Because it is getting late, I will just say that I do not support this bill. I am going to wrap it up there because there are other speakers who want to make a contribution. As I said, I challenge anyone on that side to have a public debate with me on infrastructure spending in this great country—how what was done under the Labor Party compares with the cloak-and-dagger stuff that is now being presented by Mr Truss and the Abbott government. Thank you very much.

Senator XENOPHON (South Australia) (19:45): Like many others, I have a number of concerns about the Infrastructure Australia Amendment Bill 2013 as it stands. The original intention of the bill was to provide Infrastructure Australia with greater autonomy, but the impact of the bill as drafted gives the minister far more control over the organisation's operations and reporting requirements than is appropriate.

I think it is important to acknowledge that the government appears to have taken these concerns on board and has circulated amendments to address them. In particular, the amendments will remove that part of the bill which would have given the minister the power to declare certain types of projects off limits for consideration by Infrastructure Australia—and I think it was quite outrageous that that was ever in the bill in the first place. The amendments will also remove that part of the bill which would have given the minister the power to direct Infrastructure Australia in relation to the publication of information. While I acknowledge that this was intended as a positive power to allow the minister to require information to be published, I believe it is too open to abuse. I welcome the government's decision to remove this provision and I will be supporting the government's amendment in that regard. I think it improves the bill.

However, I also believe that the amendments proposed by the opposition and the Australian Greens would improve the bill much further. In particular, I believe the requirement for the publication of cost-benefit analyses is very important. We have a duty to the Australian public to ensure that taxpayer funds are used efficiently and to the greatest benefit of the public. This amendment adds an extra layer of transparency and accountability. I will also support the opposition's amendment on 'nationally significant infrastructure'. I believe this is an important consideration when funding projects at a Commonwealth level and I support its inclusion in the bill. I also support the Australian Greens amendments on sustainability factors and public consultation. Both of these are vitally important considerations in the use of taxpayer funds and the quality and type of projects to be approved.

In addition, I will also be supporting the Australian Greens amendment on Infrastructure Australia providing advice on climate change issues that impact on infrastructure projects. There is no harm in doing so and I think it is particularly important in the context of Australia reaching its greenhouse gas abatement targets. Climate change is a very significant challenge. We need comprehensive strategies to address it across all portfolios of government. Taking into account carbon emissions, renewable energy and resource conservation must become part of policy on all levels.

I support the government's aim to increase infrastructure funding through changes to Infrastructure Australia. These projects are vitally important for Australian jobs, particularly in the manufacturing sector. Without support, and with the added burden of the closure of
Holden, Ford and Toyota as automotive manufacturers in Australia, we are at real risk of causing a huge chasm in Australian manufacturing. The former Prime Minister's Taskforce on Manufacturing, in its August 2012 report, estimated that 950,000 people were employed in the sector and that it contributed eight per cent of GDP directly. That did not include the significant amount it contributes indirectly through flow-on effects to other businesses. It also contributed 29 per cent of Australia's exports, despite the high dollar.

But the report also stated that, over the four years prior, over 100,000 jobs had disappeared from manufacturing. The report also estimated that another 85,600 jobs, at a minimum, would be lost in the five years following the publication of the report. That figure could well be significantly higher now, given that Ford, Holden and Toyota are planning to exit Australia by no later than the end of 2017—in Ford's case, they are planning to leave in 2016. If we lose our manufacturing sector, we will be at a global disadvantage. We will lose not only tens of thousands of jobs but also our self-sufficiency. That is why government supported infrastructure projects will need to play a vital role in supporting Australian manufacturing jobs and building the productive capacity of the nation. Unless it can operate independently and appropriately, Infrastructure Australia will not be able to play the role we so desperately need it to play.

In summary, I support the bill—provided a number of amendments are passed to improve it significantly. In the absence of those amendments, the bill is fundamentally flawed. The amendments proposed by the opposition and the Greens are also, I think, worthy of support. I look forward to these amendments being debated further in the committee stage.

Senator JOHNSTON (Western Australia—Minister for Defence) (19:50): I propose to sum up for the government on the Infrastructure Australia Amendment Bill 2013. The government fully supports Infrastructure Australia and its role as a key adviser to government on infrastructure projects and policy reforms. The government sees Infrastructure Australia's role as pivotal in its strategy to lift Australia's productivity. For this reason, the government has sought to strengthen Infrastructure Australia by establishing it as a more independent, transparent and expert advisory body through a change in its governance structure and better clarification of its functions.

The Infrastructure Australia Amendment Bill passed through the House of Representatives on 10 December 2013 and was introduced into the Senate the very next day. Since then, the bill has been subject to robust scrutiny through a Senate inquiry, the report of which was tabled in parliament on 17 March this year. That report recommended that the bill be passed in its original form.

The business community indicated strong support for the bill. It did, however, suggest that Infrastructure Australia be provided with greater flexibility in three key areas: firstly, in the evaluation of infrastructure proposals; secondly, in publishing material appropriately; and, thirdly, in performing its function independently. The government has listened and responded to the business community's suggestions and has made three amendments to the bill. The amendments firstly remove the ministerial powers to determine a class of proposal that Infrastructure Australia must not evaluate. The opposition tried to make much out of this from the perspective of saying that it was all about public transport. Let me advise the Senate that the original intent of referring to a class of proposals was to exclude defence projects and projects seeking Commonwealth funding that was below the $100 million figure.
Secondly, the amendments remove the specific functions to be performed only when directed by the minister. The original intent of allowing for publication requests was to increase transparency to the public while striking the right balance with commercial confidentiality issues. By removing this reference it remains the responsibility of Infrastructure Australia to determine what it will and will not publish, in accordance with general law principles, including breach of confidentiality, the Privacy Act, and other common law principles, and of course the Freedom of Information Act.

Thirdly, our amendments remove the ministerial power to specify requirements related to the timeframe, scope and manner in which Infrastructure Australia must perform a function. Again, the original intent was to ensure that Infrastructure Australia would perform its functions in a timely manner and provide advice to the government on key policy issues of high priority. We know that Infrastructure Australia previously engaged in activities that were not part of their core functions. By removing this reference, the minister can provide directions of a general nature only.

These changes in part also address the opposition's key concerns. However, the opposition's amendments effectively keep the existing legislation as it is, and therefore do not empower Infrastructure Australia with the same level of independence as that proposed by the government.

Together with the new governance arrangements that set up Infrastructure Australia as an independent board, and abolish the role of the Infrastructure Coordinator, we are trusting Infrastructure Australia's judgment, as an independent body, to carry out its function suitably and according to the provisions the parliament has set.

I would like to emphasise that these changes do not affect the government's original commitments firstly to enhancing Infrastructure Australia's status as an independent statutory authority governed by a board; secondly, to abolishing the role of the Infrastructure Coordinator; thirdly, to establishing the role of a chief executive officer to be appointed to and report to the board; and, fourthly, to reforming Infrastructure Australia's key functions and asking it to undertake an audit of nationally significant infrastructure, and developing a 15-year plan on infrastructure priorities. The bill still increases Infrastructure Australia's independence through its new governance structure, which will provide for an independent governing entity that is both legally and financially separate from the Commonwealth.

The bill still provides Infrastructure Australia with the remit to evaluate nationally significant infrastructure proposals and provide policy advice relating to the development of or investment in infrastructure, without waiting for a request from this government. The bill still better defines Infrastructure Australia's functions and deliverables so that infrastructure planning and prioritisation is improved on a national basis, providing a robust evidence based approach to allocating public funds to projects with the highest productivity returns. We are still holding Infrastructure Australia to account and ensuring that they assess projects seeking Commonwealth funding of $100 million or more, including those announced in the Infrastructure Growth Package.

In closing I would like to reiterate that through this bill the government is delivering on its commitment to broader infrastructure reforms. The reforms to Infrastructure Australia will help the government remain focused on delivering critical infrastructure, ensuring we are
getting value for money, maximising productivity and building the infrastructure of the 21st century. These reforms are rightly provided for in this bill.

I thank senators for their contributions and I commend the bill to the Senate.

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

Question agreed to.

In Committee

Bill—by leave—taken as a whole.

Senator JOHNSTON (Western Australia—Minister for Defence) (19:57): I table a supplementary explanatory memorandum relating to the government amendments to be moved to this bill.

Senator HUDLAM (Western Australia) (19:57): I will put a couple of general questions relating to the purposes of the bill. I would also like to acknowledge the amendments that Senator Johnston has just tabled. They actually go quite a long way, a remarkable way, towards quieting some of the concerns that have been expressed by those in the sector, by transport academics and by people who watch this area. So I would like to acknowledge quite genuinely that it is rare in this place to see errors as grievous as those contained in the bill not have to be shot out on the floor of the chamber but in fact moved by the government. It saves the opposition and the cross benches a great deal of time when a government of either political persuasion brings these amendments forward themselves.

Senator Johnston, I have a couple of general questions before we get into the substance and detail of the amendments that the Greens, the opposition and the government are proposing to move. Can you explain for us in simple terms why the Australian government has cancelled all funding for public transport and on what policy basis the Australian government has decided to get out of the business of funding urban rail infrastructure?

Senator JOHNSTON (Western Australia—Minister for Defence) (19:59): I think that question is a bit of a distraction and away from the bill, but the point is that the government has chosen where it seeks to augment and facilitate productivity and to enhance the Australian economy. We have acknowledged that road funding, which is an integral part of public transport, is a very important part of infrastructure that has been neglected.

Senator HUDLAM (Western Australia) (19:59): I am also acknowledging, Senator Johnston, that this is not your portfolio. You are here in a representative capacity and you just have to make do with the best that your advisers can throw at you this evening. I found the answer profoundly unsatisfying. Are you aware of the productivity and economic benefits, agglomeration benefits and various other benefits in terms of quality of life and even just straightforward economic advantages of the Commonwealth funding public transport infrastructure? It is not only roads that have these benefits.

Senator JOHNSTON (Western Australia—Minister for Defence) (20:00): If we are going to be here talking about quality of life issues, I am sure that we are going to be here for the rest of the week. Can we get on with the amendments, please?

Senator HUDLAM (Western Australia) (20:00): No, with great respect, I turned up tonight to do my job, not to make your life easy. Apologies if those two things sometimes
come into conflict. Irrespective of expert advice, irrespective of the board of Infrastructure Australia and irrespective of Michael Deegan, the Infrastructure Coordinator, the government decided—or I should say, really, that the Prime Minister decided from opposition; he telegraphed it, no-one can say that they were surprised or they did not see it coming—that it objects to Commonwealth funding for public transport. The Prime Minister said, 'We should just look after our own knitting,' or some utterly bizarre words to that effect.

I do not understand why you would do that and it is directly relevant to this bill. The opposition has proposed sensible amendments that restore the independence of Infrastructure Australia, which you are proposing to take away. Why have you pre-emptively decided not to provide Commonwealth funding for an entire class of infrastructure?

Senator JOHNSTON (Western Australia—Minister for Defence) (20:01): Since you have drawn me into this discussion, let me tell you that, as you know, there was a Senate inquiry into this matter. The department, of course, gave testimony to that inquiry. It set out that it did not agree that the bill would limit the type of project to be evaluated by Infrastructure Australia and, in particular, its ability to assess public transport projects. The Australian Automobile Association also noted that it is neither the intent nor the practical impact of the bill to exclude proposals for investment in public transport. Gee, there is a revelation, Senator!

Furthermore, the department noted that the act currently provides for Infrastructure Australia to evaluate proposals for investment in nationally significant infrastructure only by ministerial request. In contrast, the bill would enable this function to be performed without a ministerial request, except in relation to proposals in the class determined by the minister under 5A(1)(a) and (2).

Senator LUDLAM (Western Australia) (20:02): I do not intend to tie us up on this matter all night, because the minister is clearly not enjoying himself very much. Could you just clarify for us: in terms of the law, as it appears that the bill will be amended by the opposition and by ourselves, it is entirely open to the board of IA to accept public transport proposals from the states and territories, to evaluate them and to provide that advice. Is it still possible under the government’s new drafted amendments?

Senator JOHNSTON (Western Australia—Minister for Defence) (20:02): I am advised that you are correct, that is still possible.

Senator LUDLAM (Western Australia) (20:02): The board of IA is free to do that. It is free to apply the best methodological tools of analysis that they can, except that you have already decided that you will not be funding them under any circumstances. Is that correct?

Senator JOHNSTON (Western Australia—Minister for Defence) (20:03): That is not correct.

Senator LUDLAM (Western Australia) (20:03): Is it current Commonwealth government policy not to fund urban rail infrastructure?

Senator Conroy: It is just a coincidence they get nothing. You Greens are always into conspiracy theories.

Senator LUDLAM: I do not think it is a coincidence, I think this is policy. This is one of the few election commitments that the Prime Minister made that he has decided to uphold. Is
it the case that the Australian government will not be funding urban rail infrastructure? That is a yes or no question.

Senator JOHNSTON (Western Australia—Minister for Defence) (20:03): What the government has done by saying that it will fund certain projects is to free up the states so that they can fund the projects of their choice. The rail projects that you are talking about are the sort of projects that the states are now more able to deal with themselves.

Senator LUDELAM (Western Australia) (20:03): Senator Johnston, you are from Western Australia. You come from the same town as me. Are you aware that the Barnett government cancelled the Perth light rail project on the basis of the half a billion dollars' worth of funding that you took off the table?

Senator JOHNSTON (Western Australia—Minister for Defence) (20:04): No, I am not.

Senator LUDELAM (Western Australia) (20:04): For the record, can you just state this very clearly for us: you are not aware that that funding was cancelled on the basis of the Commonwealth taking that money off the table?

Senator JOHNSTON (Western Australia—Minister for Defence) (20:04): No, I am not.

Senator Conroy interjecting—

The TEMPORARY CHAIRMAN (Senator Boyce): Senator Conroy, when you have the call, please use it.

Senator LUDELAM (Western Australia) (20:04): I am finding the interjections extremely helpful. I think the position here is fairly clear. I am sorry, Minister, that you have been lumbered with this dog and I recognise that this is not your portfolio. It is a shame—on behalf of everybody who believed the Barnett government when they said they were going to bring that project forward—that you ripped half a billion dollars out of it and the project collapsed.

That is why I am putting to you, in fact, that when you take that money off the table it does not free the states up to do other things at all. It means that these projects collapse. The Brisbane cross-city rail project has collapsed. Work on the Metro Rail project in Melbourne—and Senator Conroy will correct me if I am wrong—is dead in the water. Any extensions to Sydney's urban heavy-rail system is stuffed. In fact, what you have just told the Senate, which was that it would free up the states and territories to do that work, is actually directly the opposite of what is occurring. Will you undertake to advocate in your party room for a change of policy so that we can get these public transport projects back on the rails?

Senator JOHNSTON (Western Australia—Minister for Defence) (20:05): I know you have got an axe to grind on certain urban public transport projects, but the Western Australian government, the Victorian government and the New South Wales government have made very substantial contributions and provisions in their budgets—all recently announced—for such programs. This is in line with what I said to you about freeing up the funding for the states to have some flexibility to fund programs of their choice.

Senator LUDELAM (Western Australia) (20:06): Can you name one urban rail project that is now going ahead in the absence of that Commonwealth funding, which I have just gone through in some detail? Just one?

Senator JOHNSTON (Western Australia—Minister for Defence) (20:06): I am told that in Brisbane there is an underground rail and bus infrastructure program underway.

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CHAMBER
Senator LUDLAM (Western Australia) (20:06): They just got through the gate before you cancelled their funding. I might come back to that a bit later. I am not familiar with that project. I will come back to some general questions a bit later in the debate, but let's just get started on the running sheet. I bring forward the first Australian Greens amendment on the running sheet, which is schedule 1, item 8. I will put to the chamber what this amendment does, effectively, and seek opposition and government support. The current bill requires Infrastructure Australia to take into account forecast growth when it is conducting its audits to determine the adequacy, capacity and condition of nationally significant infrastructure. That is reasonable. The Greens simply seek to add 'consideration of economic, social, environmental sustainability' when Infrastructure Australia performs these audits. Infrastructure Australia is a small team. It is not a vast government department. It is a relatively small, very expertise based group of people. So, effectively, what they are doing is outsourcing to the states and territories the primary work. When projects are brought forward for consideration by IA, that work is being done in state planning and transport departments, energy departments or departments of water for that matter, depending on the project kind.

Unless we embed these considerations in the process of conducting these audits to get a sense of where the major infrastructure gaps are, which is one of the most valuable functions that IA performs, unless we take into account the so-called triple bottom line of economic, social and environmental sustainability—conducted at the same time for the same piece of infrastructure and not done in separate silos—we are going to end up building the wrong stuff. In some parts of the country there has been a pretty sad history of doing exactly that.

I commend the first Greens amendment on the running sheet that adds a second clause 'economic, social and environmental sustainability' when IA is conducting those audits. I commend that amendment to the chamber.

The TEMPORARY CHAIRMAN: I do not like to be terribly churlish here, but are you moving the amendments, Senator Ludlam?

Senator LUDLAM: Thank you for pulling me up on that, Chair. I seek some guidance and some commentary from the government and the opposition as to whether they will support this most worthwhile amendment.

Senator CONROY (Victoria—Deputy Leader of the Opposition in the Senate) (20:09): Could I concur. It is a most worthwhile amendment, Senator Ludlam, and we will be supporting it.

Senator JOHNSTON (Western Australia—Minister for Defence) (20:09): The government is opposed to the amendments, because these considerations will be undertaken and will form part of the assessment, the cost-benefit analysis, by Infrastructure Australia. We see that they are not necessary and further legally complicate the legislation. They are logically and naturally part of the assessment. Why would we need to put them in the bill?

Senator LUDLAM (Western Australia) (20:09): Minister, you might forgive the Greens for not taking you at your word when you say, 'Why would you omit economic, social and environmental sustainability when making infrastructure decisions?' You might not be too surprised that I do not take this government at its word that you would just automatically consider those things. The Prime Minister thinks climate change is absolute crap, and I will have a little bit more to say about that when we get to those specific clauses later in the
evening. You do not have a very good record on this stuff—not you personally, Minister; but the government absolutely does not have a good record. In that case, I look forward to committing this amendment to the chamber. I move the amendment on sheet 7482 revised:

(1) Schedule 1, item 8, page 4 (lines 22 to 24), omit paragraph 5(a), substitute:

(a) to conduct audits to determine the adequacy, capacity and condition of nationally significant infrastructure, taking into account:

(i) forecast growth; and
(ii) economic, social and environmental sustainability;

I look forward to it passing to the House of Representatives, where the minister will be given a chance to have some second thoughts and hopefully come up with a better line of argument than you have, Senator Johnston, with great respect.

Senator JOHNSTON (Western Australia—Minister for Defence) (20:10): I appreciate this, but we have said that this bill is about independence. We are not going to prescribe to Infrastructure Australia the way in which they should go about doing their cost-benefit analysis. This is what the whole of this legislation is about—an independent arm's length from government assessment.

The TEMPORARY CHAIRMAN: The question is that Australian Greens amendment to schedule 1, item 8, be agreed to:

Question agreed to.

The TEMPORARY CHAIRMAN: We will now move to the next Greens amendment.

Senator LUDLAM (Western Australia) (20:11): As you have indicated, the second amendment on the running sheet is also an Australian Greens amendment. It is very similar to one that Senator Conroy will be moving shortly on behalf of the opposition—amendment (2). I will go through it, although I suspect Senator Conroy will prefer his own form of words. However, I will explain briefly what we are proposing, which is to insert into schedule 1, item 8, on page 5:

… to review and provide advice on proposals to facilitate the harmonisation of policies, and laws, relating to development of, and investment in, infrastructure;

I presume that is reasonably straightforward. Again, I do not think we are teaching IA how to suck eggs here. We are creating some guidance and a framework for the kinds of things that need to be borne in mind so that we do not end up with a mish-mash, so that we do not end up, heaven forbid, with different rail gauges at the state and territory level. Heaven forbid that we could come up with something like that! I commend this amendment to the chamber. I will not be brutally offended if Senator Conroy believes that the opposition's form of words is better, but I believe in this instance that the Australian Greens have got it about right.

Senator CONROY (Victoria—Deputy Leader of the Opposition in the Senate) (20:12): Could I take comfort from the fact, Senator Ludlam, that you have said that you would not be offended if we preferred our own amendment. I indicate that in this instance we are both driving to the very same place. We would probably prefer our words and so we will be supporting our words, but with very similar aims, as you have described.

Senator JOHNSTON (Western Australia—Minister for Defence) (20:13): I am more than happy to inform the chamber that this is not an amendment we would support, but we will not
oppose it. Accordingly, if you ascertain that the opposition amendment is preferred, let us go that way. I will leave it up to you, Senator Ludlam, as to how you want to proceed.

Senator LUDLAM (Western Australia) (20:13): Maybe for the purpose of simplicity I will withdraw the second Australian Greens amendment (2), schedule 1, item 8, and we can just move to the next one.

The TEMPORARY CHAIRMAN: As I understand it, Senator Ludlam, you had not actually formally moved it, so you do not need to withdraw it; it just lapses.

Senator LUDLAM: As you wish, Chair.

The TEMPORARY CHAIRMAN: Senator Conroy, we are now up to your amendment.

Senator CONROY (Victoria—Deputy Leader of the Opposition in the Senate) (20:13): I move opposition amendment (2) on sheet 7463 revised:

(2) Schedule 1, item 8, page 5 (after line 4), after paragraph 5(g), insert:

(ga) to review and provide advice on proposals to facilitate the harmonisation of policies, and laws, relating to development of, and investment in, infrastructure;

(gb) to review Commonwealth infrastructure funding programs and their alignment with Infrastructure Plans given to the Minister under section 5B;

This amendment to schedule 1, item 8, has the effect of retaining two functions that are already in the act. These functions are now to be exercised at the independent board's discretion. The first function relates to harmonisation of infrastructure laws, and this allows IA to look at ways of streamlining regulation around infrastructure investment. This provision is in the new bill but only at the minister's direction. This amendment makes exercise of this function a matter for IA itself.

The second function relates to reviewing Commonwealth funding against IA infrastructure plans. This provision is in the current act. This amendment retains the function and makes exercise of this function a matter for IA itself. With these changes no functions under the act would require the minister's direction. This is consistent with the expert advisers on IA.

Senator JOHNSTON (Western Australia—Minister for Defence) (20:15): If (ga) and (gb) are together, we will have to oppose this amendment, because (gb) offends us. The Greens amendment was simply to (ga). If Senator Conroy would be pleased to move only (ga) there would be no problems, but both (ga) and (gb) would be an issue for us.

The TEMPORARY CHAIRMAN: Senator Conroy, can I clarify: you are opposed to opposition amendment (2) on sheet 7463 but you are not opposed to Greens amendment on sheet 7482?

Senator JOHNSTON: Chair, I will clarify. This amendment on sheet 7463 revised to schedule 1, item 8, is in two parts. Inserting (ga): 'to review and provide advice on proposals to facilitate the harmonisation of policies, and laws, relating to development of, and investment in, infrastructure', is not a problem. However, (gb), which is also part of that item, states: 'to review Commonwealth infrastructure funding programs and their alignment with Infrastructure Plans given to the Minister under section 5B'. We are opposed to (gb). If my learned friend Senator Conroy were to break them up and move (ga) only, we would not be opposed. But we are opposed to (gb).
Senator LUDLAM (Western Australia) (20:17): Madam Chair, I think Senator Johnson is entitled to have the two questions put separately. I would indicate on behalf of the Greens, for reasons that I put fairly clearly in relation to the amendment that I did not end up moving, that the Greens would support both (ga) and (gb). They are very similar and in alignment with what the Australian Greens were seeking to do. Again, it is not about tying Infrastructure Australia's hands. We are dealing with fairly talented people who know what they are doing. I think it provides guidance and a framework around getting more harmonised infrastructure investment at the assessment stage. I would be keen to know why Senator Johnson would want to pull (gb) out and oppose it in particular: 'to review Commonwealth infrastructure funding programs and their alignment with Infrastructure Plans'. If we are not doing that process of iteration and saying we produce these plans, then what was it that was chosen and funded? What happened when the politics intervened? Did we still basically get it right? I think that is a very important feedback process. I indicate now that the Greens will be supporting both (ga) and (gb), whether they are put together or separately.

Senator JOHNSTON (Western Australia—Minister for Defence) (20:18): As you can see, the wording of (gb) is to conduct a backwards-looking review. We do not want to do that. We want to look forward, creating infrastructure plans that will address future infrastructure needs. It is important to review funding programs, but we do not believe Infrastructure Australia is the relevant body for this particular function.

Senator CONROY (Victoria—Deputy Leader of the Opposition in the Senate) (20:19): We would prefer to press both (ga) and (gb). We would be happy to withdraw our next batch of amendments, if the minister is moving the amendments listed in his name underneath that on the running sheet. But, for the purposes of this discussion, we would prefer to stick with the amendment we have put forward.

The TEMPORARY CHAIRMAN (Senator Boyce): The question is that opposition amendment (2) on sheet 7463 revised be agreed to.

Question agreed to.

Senator CONROY: If the minister would give an indication that the government will be moving its amendments listed under our next listed amendment, we would withdraw our amendments.

Senator JOHNSTON (Western Australia—Minister for Defence) (20:20): by leave—I am very happy to do that. I thank Senator Conroy. I move:

(1) Schedule 1, item 8, page 5 (lines 15 to 17), omit subsection 5A(2).

(2) Schedule 1, item 8, page 5 (lines 18 and 19), omit "or subsection (2)".

Senator CONROY (Victoria—Deputy Leader of the Opposition in the Senate) (20:20): We withdraw our next listed amendments and we are happy to support the government.

Senator LUDLAM (Western Australia) (20:21): The Australian Greens will be supporting these amendments. I do not propose to rub Senator Johnson's nose in it. I think it is quite refreshing to have something like this come forward, based not only on the work done by the Senate standing committee but also I think fairly widespread and widely understood views in the community that this is the right way to go. If the opposition has thereby withdrawn its amendment to that effect, we can move through this reasonably quickly.
Initially this was cause for us to vote against the bill in its entirety. I think Minister Truss has certainly recognised that this is about the independence. The last thing you want is for Infrastructure Australia to be told either, 'You have to evaluate this pet project that has fallen out of some political analysis about a marginal seat and someone wants to cut a ribbon before the next election,' or, 'You are precluded from evaluating an entire class of proposals.' That is what I was getting to before with a government's policy position that says that public transport no longer needs any kind of Commonwealth investment, even though these are very large—in some cases decades long and quite expensive—infrastructure projects that I think require a Commonwealth funding stream.

The government amendments also go to the fact that the minister would have been able to withhold the release of project evaluations that he did not like or that were politically inconvenient. Sometimes you are going to get inconvenient evidence from an independent body and you take the good with the bad; that is why we have these things. Keep in mind that Infrastructure Australia is not an executive body as such; rather, it is an advisory body. It provides to elected MPs—people who are accountable at least every couple of years—the benefit of its work. It is not actually a decision-making body so much as an advisory one.

Nearly every submission to the Senate inquiry raised this section as a huge concern, including groups as diverse as the Australian Sustainable Built Environment Council, or ASBEC; the Urban Development Institute of Australia; the Committee for Melbourne; Consult Australia; and even the Business Council of Australia. As Senator Conroy pointed out before, if the Business Council is against coalition policy then you know you have got it very badly wrong. As I said, this would have allowed the minister to exclude classes of projects. I am not sure, and I do not think anybody is very sure, what the motive was for the coalition to attempt to introduce such radical powers to weaken—

Senator Conroy: I'm very sure. I smell pork.

Senator LUDLAM: Senator Conroy, maybe you are just a little bit jaded. Maybe you are just a little more jaded than me; you have been here much longer than me, and my glass up here is still half full.

Senator Conroy: You've been elected twice.

Senator LUDLAM: Two and a half times.

The TEMPORARY CHAIRMAN (Senator Boyce): Senators Conroy and Ludlam, please direct your remarks through the chair.

Senator LUDLAM: Nonetheless, as I said, these are sensible amendments that the government brought forward and the Greens will be happy to vote for them.

The TEMPORARY CHAIRMAN: The question is that the government amendments (1) and (2) to sheet AF272 be agreed to.

Question agreed to.

The TEMPORARY CHAIRMAN: We now move to Australian Greens amendment (3) on sheet 7482 revised.

Senator LUDLAM: I withdraw amendments (3) and (4) on sheet 7482 revised. We will not be proceeding with this particular bracket of amendments because the government appears to have fixed those clauses of the bill.
The TEMPORARY CHAIRMAN (Senator Boyce): We now move to opposition amendments (1) and (6) on sheet 7463.

Senator CONROY (Victoria—Deputy Leader of the Opposition in the Senate) (20:25): by leave—I move opposition amendments (1) and (6) on sheet 7463 together:

(1) Schedule 1, page 3 (after line 22), after item 6, insert:

6A  Section 3

Insert:

quarter means a period of 3 months beginning on 1 January, 1 April, 1 July or 1 October of a year.

(6) Schedule 1, item 8, page 5 (after line 19), at the end of section 5A, add:

(4) As soon as practicable after the end of each quarter, Infrastructure Australia must make a summary of each proposal evaluated during the quarter available on its website.

These amendments remove a further area of legislated ministerial interference from the bill. Item (1) defines ‘quarter’ within a year in a standard way. Item (6) uses that definition to require Infrastructure Australia to publish on its website summaries of proposals evaluated on a quarterly basis. These amendments are about transparency. Senator Ludlam, I saw the Senate seniority list recently and I am nearing the top, which is quite frightening really. But I have unfortunately witnessed many a National Party minister pork-barrel extensively. That is exactly why the minister sought to gut the independence of Infrastructure Australia. I smell pork. We should do everything we can to put the barbecue out.

Senator JOHNSTON (Western Australia—Minister for Defence) (20:26): We are opposed to both of these amendments. Firstly, with respect to 6A subsection 3, we do not think the definition is relevant and accordingly we are opposed to the insertion of ‘quarter means a period of three months’. Secondly, we cannot support (6) either. The government considers that Infrastructure Australia should publish its evaluations in real time to assist industry and state governments address Infrastructure's findings in a timely manner. We do not want to restrict Infrastructure Australia in determining how and when it publishes such material.

Senator LUDLAM (Western Australia) (20:28): The Australian Greens will be supporting both of these opposition amendments. It is just remarkable to hear Senator Johnston trying to justify opposing an amendment that would make a summary of evaluated projects live every quarter. What exactly is the problem with that? Infrastructure provision is not necessarily just best left to some kind of closed cabal of so-called experts. That is partly because this is taxpayers' money being expended and partly because people in regional and local communities have to live with the decisions that you make, such as dropping freeways over their backyards, putting coal rails past schools, choosing to extend an electricity grid to a particular region or choosing not to, or provision of clean water. People have to live with these decisions. I find it remarkable that the government would oppose much more frequent updating and publication of the progress of evaluations in some of these audits. I congratulate the opposition for bringing these forward. Again, they are similar to amendments that the Australian Greens had proposed. We are very happy to support them.

The TEMPORARY CHAIRMAN (Senator Boyce): The question is that opposition amendments (1) and (6) on sheet 7463 revised be agreed to.

Question agreed to.
The TEMPORARY CHAIRMAN: We now move to Australian Greens amendment (5) on sheet 7482.

Senator LUDLAM: I move Greens amendment (5) on sheet 7482:

(5) Schedule 1, item 8, page 5 (line 28), after "productivity", insert "liveability and sustainability".

This is a reasonably simple amendment that proposes to insert after 'productivity' the words 'liveability' and 'sustainability'. This is similar in intent to amendments that we moved before that were not supported by the government, but I am pleased to say they were supported by the opposition. If we imagine that infrastructure provision is best decided as though people live inside spreadsheets, that everything can be quantified and that really economic productivity is the only factor that you should pay attention to, then we will end up making very bad decisions. We have a history of doing exactly that. Yes, productivity is extremely important, although I wish the government would pay as much attention to energy and water productivity as they do to labour productivity. If they did that, it would lead to something of a revolution in the way infrastructure is designed and delivered. But, nonetheless, it is still an important factor that needs to be borne in mind. The Australian Greens would argue that so is liveability for host communities and the people who actually have to live with some of these decisions and sustainability, in the broadest sense of the word, whether we are building obsolete infrastructure or infrastructure that is fit for purpose in the 21st century. That is the intent of this amendment.

Senator CONROY (Victoria—Deputy Leader of the Opposition in the Senate) (20:31): After much agonising, I indicate that the opposition will not be supporting this amendment. We think this distracts from the focus of IA a bit and it is a little too vague. We think IA needs to be very focused. After much consideration, we will not be supporting this amendment.

Senator JOHNSTON (Western Australia—Minister for Defence) (20:31): I could not help but agree with my very learned colleague sitting opposite. I could not have put it better myself. We will be opposing this particular amendment.

The TEMPORARY CHAIRMAN (Senator Furner): The question is that the Greens amendment schedule (1), item (8) be agreed to.

Question negatived.

Senator CONROY (Victoria—Deputy Leader of the Opposition in the Senate) (20:32): I move opposition amendments (7) and (8) on sheet 7463 together.

(7) Schedule 1, item 8, page 5 (after line 32), after paragraph 5B(1)(b), insert:

(ba) includes a cost benefit analysis of each such proposal; and

(8) Schedule 1, item 8, page 6 (lines 7 to 12), omit subsections 5B(2) and (3), substitute:

(2) A plan must cover a period of 15 years from the time the plan is prepared, or such other period as the Board determines.

(3) A cost benefit analysis included in a plan as mentioned in paragraph (1)(ba) must be prepared using the method approved by Infrastructure Australia. The method must enable the proposals to be compared.

(4) A plan must be prepared under this section every 5 years, or at such other intervals as the Board determines.
Within 14 days of a plan being given to the Minister, the plan must be made available on Infrastructure Australia's website.

These amendments relate to the proposed infrastructure plans which Labor supports; indeed, IA already has plans. Item (7) requires cost benefit ratios to be produced for proposals relating to IA's priorities alongside productivity gains and other newly prescribed matters. Item (8) gives the IA board the discretion to decide on planned horizons of longer or shorter duration—of up to 15 years at their discretion—and similar for revisions of more or less five years. This item also requires the publishing of IA plans as called for by many stakeholders, including the BCA. Our amendments provide meaning to cost benefit analysis by requiring IA to develop a process whereby published cost benefit analyses are capable of being compared.

On item (20) we are giving precedence to Senator Ludlam's amendments, but I will detail ours briefly. Item (20) improves transparency by requiring IA to publish annually the method and weightings it uses in its standard cost benefit method. This allows interested parties to understand and constructively debate how IA arrives at its project rankings. This is a healthy reform that helps states, proponents and the public understand IA's approach to project recommendations. These amendments are consistent with both independence and transparency. As I indicated, we are deferring to the Greens' item (15). I withdraw amendment (20).

Senator Johnston (Western Australia—Minister for Defence) (20:35): We need to state that we are opposed to (7) and (8), because this is a mixing up of the purpose of the plan with project proposals. Cost benefit analysis should not be undertaken in the plan. The infrastructure plan is not about individual projects and therefore it would be ridiculous to do a cost benefit analysis on a broad plan, if you follow me. Similarly, the 15-year plan was an election commitment in (8). Infrastructure Australia needs to be tasked with it, and the board should not be in the position to determine whether or not it does this. We are opposed to those and I will foreshadow that we are opposed to the Greens' amendment.

Senator Ludlam (Western Australia) (20:35): Even though the Greens' amendment is an absolute cracker, I indicate that we will support opposition amendments (7) and (8), and I will foreshadow that for that reason I will withdraw the forthcoming Australian Greens amendment (6) and (8) respectively, as they are again very similar in intent. I might speak to those when I get to speak to my other amendments, but in the meantime I am happy to support these two from Senator Conroy.

The Temporary Chairman: The question is that amendments (7) and (8) be agreed to.

Question agreed to.

Senator Ludlam: I withdraw Greens amendments (6) and (8), as amendments to that effect were just carried by the Senate on behalf of the opposition. Amendments (9) and (15) are very different amendments and I am happy for the questions to be put separately, even though I understand I have opposition support for both of them. I move Greens amendments (9) and (15) on sheet 7482 together:

(9) Schedule 1, item 8, page 6 (after line 12), at the end of section 5B, add:

(a) no later than 6 months after the commencement of this section; and
(b) every 24 months after that first review.

(15) Schedule 1, item 39, page 17 (line 15), at the end of section 39C, add:

; (d) details of each method of preparing cost benefit analyses approval of which was in force under subsection 5B(3) at any time during the year, including the weight required to be assigned to each factor the method required to be taken into account.

These are both very important amendments. The first one, amendment (9), goes to the method of cost-benefit analysis that is undertaken, and this, really, is what the decisions that get made hinge upon—or at least the decisions that get published by way of advice from Infrastructure Australia to the minister.

What we think needs to be addressed—and these two amendments give effect to this—is firstly, that the cost-benefit analysis methodology that is used, not by IA but by proponents who are bringing some of these plans and proposals forward, is grievously flawed. We see this time after time, for example, in justifying urban freeway projects, and you might wonder how it is that, against the catastrophic cost of installing multi-lane urban freeways through existing communities and urban fabric, somehow a cost-benefit analysis can come back—if you are cooking the numbers—and say, 'The benefits of this freeway can amount to billions and billions of dollars.' You might wonder how on earth those benefits are calculated. It is relatively easy—and we ran into this problem with the National Broadband Network—to calculate the costs of an infrastructure project, because we have been doing it for decades. But how on earth do you calculate the benefits? You can add up the costs—the cost of materials, the cost of labour, the cost of planning—but calculating the benefits of these things is inordinately difficult. And if project planners want the foregone conclusion to be that the urban freeway takes precedence over the urban rail, they just fudge figures and make numbers up, and effectively say, 'All that time that you will be spending zooming along the open road—now that we have decongested the freeway—adds up to billions of dollars in time saved because you got to work quicker.' These numbers are just pure hallucination. They mean nothing. What the Australian Greens want, as the amendment says, 'no later than six months after the commencement of this section' and then every 24 months after that first review, is to look at whether the cost-benefit analyses are actually performing for us—against social, environmental and economic costs and benefits—not simply performing an accounting trick that, in fact, you could get to deliver whatever result you wanted. A couple of years back, a Professor Henry Ergas—

Senator Conroy interjecting—

Senator LUDLAM: who Senator Conroy has some familiarity with, frustrated that the Australian government, with the support of the Greens, had not undertaken a CBA of the National Broadband Network, undertook to do it himself. Again—

Senator Conroy: In three days!

Senator LUDLAM: In three days; indeed. Again, you can calculate the cost of an infrastructure project because it is mostly hardware, and you can come up with an idea of the cost. To calculate the benefits of network infrastructure, you just need to make things up—and the results you get are entirely sensitive to your input assumptions and to how you weight them. We have no idea how Professor Ergas weighted his, but he came back with an imaginary number that said: 'Actually, don't bother: the costs of building the NBN exceed the benefits, so just don't bother.' And that is the kind of cooking of the books that we want to try
and avoid. Because these numbers carry such weight—they carry political weight, they carry economic weight; they carry enormous weight inside Treasury where decisions are made as to whether things will get funded or not—it means that the method of evaluation must be as transparent as possible, it must be reviewed, and it must take advantage of best practice elsewhere. Australian authorities and communities are not the only ones grappling with these very questions. The amendment proposes that that report—six months in, and then every 24 months after that—be placed on Infrastructure Australia's website, unredacted, within 14 days.

Amendment (15) is equally important. It proposes that the details of each method of preparing the CBA approval which was in force, including the weight required to be assigned to each factor, be taken into account. We want to see that published. That is the purpose of this amendment. How did you weight it? How big was your imaginary number—derived from the magic of being able to drive very rapidly down a new eight-lane freeway that has no traffic on it? It is fine that you have to come up with monetised factors to be able to weigh the scales of costs and benefits, but at least let us know what were hard data and what was pure fantasy. This is a very important amendment. I am very glad, I believe, that we have opposition support for it. I hope Senator Johnston has been persuaded, by the clarity of my argument, that probably one of the more important things we will do tonight is to provide a bit of a spotlight on the way that CBAs are undertaken in this country, so that we might actually get a little bit more honesty into the process. We have created that rolling review process precisely so that our methodology stays up-to-date as practice around the world improves. I commend these two amendments to the chamber.

Senator CONROY (Victoria—Deputy Leader of the Opposition in the Senate) (20:42): I would like to indicate that we have been convinced by these very cogent arguments to support these amendments, Senator Ludlam.

Senator JOHNSTON (Western Australia—Minister for Defence) (20:42): I would like to say that we are opposed to each of these amendments. The folly here is that we are linking a cost-benefit analysis to the plan; it is the project proposal that is subject to the analysis, and that methodology and that system are set out clearly on the website. I should remind senators that this system has been in place and working successfully, to some greater or lesser extent, for the past six years. I find it a little ironic that we are going to make these sorts of amendments. The government is opposed to these amendments.

The TEMPORARY CHAIRMAN (Senator Furner): The question is that amendments (9) and (15) on sheet 7482 be agreed to.

Question agreed to.

Senator LUDLAM (Western Australia) (20:43): I move Australian Greens amendment (7) on sheet 7482:

(7) Schedule 1, item 8, page 6 (after line 4), after subparagraph 5B(1)(c)(ii), insert:
  (iia) deliberative engagement and consultation with local communities; and
  (iib) principles of integrated design; and

This is an important amendment; in fact, it goes to the heart of the Australian Greens' wish and our vision to democratise infrastructure. If there was one single thing that we could do to improve legislation like this, and to improve what gets delivered to communities and to
people who have to live in areas that these decisions impact, it would be to democratise the way that infrastructure is done. At the moment we have state planning and transport departments, with very uneven records of delivery, putting forward pet projects, sometimes in a bit of a rush, which Infrastructure Australia then has to basically just make the best of, as best it can. And when these projects hit the table, whether the projects be transport, electricity, water or telecommunications, IA has almost no visibility at all of whether there is community consent; whether there is social licence; whether there are huge mobilisations—like hundreds and hundreds of people turning up to commit to stopping the Roe Highway extension through the Beeliar wetlands. That is one example that is very close to home; I hope that part of the world is as precious to you, Senator Johnston, as it is to me.

If you were to embed—not at the IA level but upstream, at the level where state and territory authorities are working out what kinds of processes to bring forward—not just some kind of brief obligation to consult at people, to tick boxes, to hold poorly advertised meetings late at night in faraway places that no-one turns up to and then take that as evidence that people do not care, but deliberative engagement with people, bottom-up planning processes where you actually go into the communities and say: 'What do we need? What kind of infrastructure is in demand here?' then you get a smarter answer. You get the wisdom of the crowd, and you get better proposals that come forward.

The second subclause here, (iib), speaks of the principles of integrated design. For the benefit of the record, I just want to go into a brief amount of detail as to what we mean by that. This was a Labor Party idea. The model I am most familiar with was brought in by Premier Mike Rann in South Australia—the introduction of an integrated design commissioner within the office of the Premier, who went precisely to these issues that I am talking about: deliberative engagement and planning, an integrated infrastructure provision to improve communities. They did extraordinary work before they were closed down and their expertise was distributed through the Public Service and some very good people moved on. I want to acknowledge Tim Horton as the integrated design commissioner in SA. This is a model that I think we would be very wise to adopt around the country. I would love to see something like this in Western Australia. If those principles are adopted, you do not get the community action groups waving placards; you get consent, you get social licence, you get better projects up. So I commend this Australian Greens amendment (7) to the chamber.

Senator CONROY (Victoria—Deputy Leader of the Opposition in the Senate) (20:46): I indicate that while very sympathetic to the points that Senator Ludlam has made I think this is probably just a little bit too much detail for this bill, given that it is an advisory board. So the opposition will not be supporting this amendment.

Senator JOHNSTON (Western Australia—Minister for Defence) (20:46): Again, I am extraordinarily impressed with the good judgement of my learned friend. Deliberative engagement, consultation with local communities—in a nutshell, this is a lawyers' feast. Integrated design is a similar term that I think, without more, is just going to complicate the situation, and you would not put this in the legislation.

The TEMPORARY CHAIRMAN (Senator Furner): The question is that item (7) on sheet 7482 be agreed to.

Question negatived.
Senator CONROY (Victoria—Deputy Leader of the Opposition in the Senate) (20:47): by leave—I move amendments (9) to (12) on sheet 7463:

(9) Schedule 1, item 8, page 6 (line 14), before "For", insert "(1)".
(10) Schedule 1, item 8, page 6 (after line 22), after paragraph 5C(b), insert:

(ba) policy issues arising from climate change;

(11) Schedule 1, item 8, page 6 (line 29), at the end of section 5C, add:

; (g) the delivery of infrastructure projects.

(12) Schedule 1, item 8, page 6 (after line 29), at the end of section 5C, add:

(2) For the purposes of paragraph (1)(g), Infrastructure Australia may evaluate the delivery of an infrastructure project, including evaluating:

(a) the delivery against any targets set before or during delivery; and

(b) any relevant assumptions made before or during delivery.

(3) Infrastructure Australia also has the function of promoting public awareness of the matters mentioned in subsections (1) and (2), including by publishing information on its website.

These amendments relate to the existing areas of general infrastructure provided by IA. Item (10) retains policy issues arising from climate change. The government has tried to take this out. Labor proposes to retain it and leave it to IA to determine how to provide that advice. Item (11) adds a new area of advice sought by several stakeholders, the ability to conduct ex post analyses of projects to compare assumptions at the start with the actual process of delivery—what went right, what went wrong—so that all interested parties can learn and improve project delivery. Item (12) provides greater detail on these reviews and adds a role for IA to provide public education on part 5C advice matters via its website. IA effectively plays this role currently. Item (9) is a consequential renumbering. Once again, these amendments enhance independence and transparency.

Senator JOHNSTON (Western Australia—Minister for Defence) (20:48): We are opposed to these amendments, and, can I say, this is the most important opposition of the night. We think some of these functions can already be undertaken. We simply cannot support the direction that the opposition wants to take the legislation in.

Senator LUDLAM (Western Australia) (20:49): On behalf of the Australian Greens: that speaks volumes, doesn't it? We cannot support the direction that the opposition—and I should say the crossbench—'wants to take the bill in'—in the direction of greater transparency and climate literacy. Senator Johnston, climate change actually is a thing. It really actually is a thing. It does exist. I know it is hard to believe, but it actually really does. And I will indicate at the outset that the Australian Greens will be supporting these amendments. I do not think the Labor Party goes nearly far enough, so I will have a bit more to say about climate change, as, I suspect, will Senator Milne, when we come to move the next Greens amendment. My understanding is that what the Labor Party has sought to do here is simply reinsert the existing language from the existing act and put it back in where it belonged—that is, up to date, to this time—and that it has had climate change as one of the material factors it needs to evaluate when it is seeing projects roll in. That washes back through the states and territories so that they know that this is something that Infrastructure Australia cares about even if they do not and that they need to make an effort to justify it—not simply mitigation, but adaptation as well. Is this project going to survive the age of climate change? Does it massively increase
greenhouse gas emission? It is not perfect. I do not think it has worked particularly well, which is why the Australian Greens amendments go so much further. But it is extraordinary that the coalition sought to remove it as a material fact. What is it about this government that has washed out the Public Service, the experts, everyone from CSIRO to the Bureau of Meteorology and bowled over ARENA, smashed up the Clean Energy Finance Corporation, changed the renewable energy target. What are you doing? And, more to the point, Senator Johnston, why are you doing it?

Senator JOHNSTON (Western Australia—Minister for Defence) (20:50): Obviously Senator Ludlam does not understand what is currently going on, because climate change can only be considered upon ministerial request now. That is a pretty important difference to where we want to take the legislation. We have said that the function under our disposition can be undertaken under section 5C—that specific reference to climate change is not necessary as it is already covered in 5C(b) of the bill. What we have said is that this is an improvement, so that Infrastructure Australia, of its own motion, can proceed. But obviously we are going to agree to disagree on this, and we must oppose these amendments.

The CHAIRMAN: The question is that opposition amendments (9) to (12) on sheet 7463 be agreed to.

The committee divided. [20:55]

(The Chairman—Senator Parry)

Ayes .................32
Noes ..................27
Majority ..............5

AYES

Bilyk, CL (teller)  Bishop, TM
Cameron, DN  Carr, KJ
Collins, JMA  Conroy, SM
Dastyari, S  Di Natale, R
Farrell, D  Furner, ML
Gallacher, AM  Hanson-Young, SC
Lines, S  Ludlam, S
Ludwig, JW  Marshall, GM
McEwen, A  McLucas, J
Milne, C  Moore, CM
Peris, N  Polley, H
Rhiannon, L  Siewert, R
Singh, LM  Sterle, G
Tillem, M  Urquhart, AE
Waters, LJ  Whish-Wilson, PS
Wright, PL  Xenophon, N

NOES

Back, CJ  Bernardi, C
Birmingham, SJ  Boswell, RLD
Boyce, SK  Brandis, GH
Bushby, DC (teller)  Cash, MC
Colbeck, R  Edwards, S
Eggleston, A  Fierravanti-Wells, C
I move Greens amendment (10): (10) Schedule 1, item 8, page 6 (after line 22), after paragraph 5C(b), insert:

(ba) climate change, as it relates to infrastructure, including the following:

(i) the economic, social and environmental impacts of climate change;

(ii) prioritising infrastructure that would assist with adapting to, or mitigating, climate change;

(iii) the role of infrastructure in decarbonising the economy;

(iv) the impact of infrastructure decisions on the achievement of national and international targets to limit global warming;

As I acknowledged before, the opposition amendment that the Greens just supported in part reinserts the language that the government had in its infinite wisdom around climate-related matters chosen to delete. We have put that back in. It is the Australian Greens view that the legislation does not go nearly far enough, and that climate change has to be front and centre in all relevant aspects of government policy, including, crucially, infrastructure provision, which has a life span if you are considering road-rail projects, water infrastructure projects or power projects well into the 2030s, 2040s or 2050s. We are basically living in a different kind of world and potentially in a different geological age. That is the reason we propose much stronger language in this bill around the way that Infrastructure Australia evaluates the advice that it gets on climate change and that it then in turn provides to the government.

The amendment we have proposed goes further than where for some reason the Labor Party has seen fit to land by saying, first, that climate change as it relates to infrastructure includes the economic, social and environmental impacts of climate change; and, second, prioritising infrastructure that would assist with adapting to or mitigating climate change—in other words, moving it up the merit order because it is going to be so important in protecting communities and protecting the economy and protecting the environment as it attempts to adapt. Third, there is the role of infrastructure in decarbonising the economy. I am probably as guilty in this respect as anybody. We have spoken at length about public transport but...
infrastructure is, among other things, the electricity grid that keeps everything moving. As I said in my second reading contribution, the role of infrastructure in urgently decarbonising the economy is a massive principle—you could say it is primary. That has to be front of mind for those assessors in Infrastructure Australia when they are considering which projects should be granted billions of dollars of funding and which should not. Finally, there is the impact of infrastructure decisions on the achievement of national and international targets to limit global warming. As everybody in this chamber is aware, except those who have chosen to simply blindfold themselves to what is going on, the infrastructure decisions that we make are locked into very long lead times. For example, if you build a coal-fired power plant today its investors will be assuming it will still be operating in the 2040s or 2050s, long after this technology will need to have been phased out if we are to have any chance at all of coming to grips with what is occurring all around us.

If on the one hand we have climate negotiators at international conferences arguing that Australia is doing its bit, as the rest of the world is now starting to do, and adopting very stringent targets around carbon reduction, eliminating the sources of emissions that are doing so much damage, we cannot at the same time have an industry portfolio and an infrastructure portfolio making long lead time capital investment decisions over 40 or 50 or more years that make it completely impossible to meet those targets. That is something that Infrastructure Australia needs to be very aware of when it is prioritising and choosing what to recommend and put forward. I hope Senator Conroy will have had a profound change of heart. I know he has been concentrating intently on my contribution, as I am sure Senator Johnston has. This amendment should be passed into law tonight.

Senator CONROY (Victoria—Deputy Leader of the Opposition in the Senate) (21:04): We support the general argument Senator Ludlam is making but we feel that the last amendment retaining climate change advice did cover it and we think this one is a little too prescriptive in the context of a bill for an advisory body of experts. We think we have covered the general thrust so we will be opposing this amendment.

Senator JOHNSTON (Western Australia—Minister for Defence) (21:04): I am in agreement with my learned friend Senator Conroy.

Senator MILNE (Tasmania—Leader of the Australian Greens) (21:04): At the time the first infrastructure bill was put through the parliament the Australian Greens were part of the consultation and the original language about addressing climate change was part of what was determined at the time. Many years have gone by since then, and the Australian experience has demonstrated that the failure to take climate change into account in infrastructure proposals that are either coming forward or in Infrastructure Australia's assessment suggests we need to go to something much more significant. Let me go to the first point in the amendment—the economic, social and environmental impacts of climate change. Let me take Roma as an example. We have had the shocking flooding in Queensland and we have had terrible storm damage as well. If the levee issue had been addressed in Roma in 2005, the estimated cost at the time would have been $20 million. Subsequent to that, since 2008, $100 million has been paid out in insurance claims in Roma and since 2005 over $500 million has been paid out by the public and the private sector for the repair bill. That is just one example where, if we had taken the climate predictions and scenarios seriously and moved in and built the infrastructure we needed to build when it was needed, we would have saved not only
incredible distress in that community caused by the flooding; we would have saved an enormous amount in terms of infrastructure costs and replacement.

Over that period of time, we have seen: in January 2009, the Far North Queensland floods; February 2009, Victoria's Black Saturday; April 2009, Northern New South Wales flooding; May 2009, the Queensland storm damage; December 2009, bushfires in WA; March 2010, Western Queensland floods; March 2010, storm event in Melbourne; March 2010, storm event in Perth; December 2010, Queensland floods; January 2011, Victoria floods; February 2011, Cyclone Yasi in Queensland; February 2011, storm event in Melbourne; February 2011, Perth bushfires; November 2011, Margaret River bushfires; December 2011, storm event Melbourne; January 2012, floods in South-West Queensland; February 2012, floods in New South Wales and Victoria; January 2013, Tasmanian bushfires; January 2013, New South Wales bushfires; January 2013, storm event in Queensland; January 2013, storm event in Northern New South Wales; October 2013, New South Wales bushfires; January 2014, Perth bushfires; April 2014, Queensland cyclone.

That is what we are now seeing with extreme weather events, and with their intensity and cost. That cost goes to billions in terms of the infrastructure repairs, not to mention the insurance costs and the fact that several people in those communities have subsequently not been able to get insurance for their homes and businesses. When this goes to further infrastructure, we have had railway lines buckle in extreme heat; we have had roads wash away; we have had energy systems brought down and real risks of mega-blackouts and brownouts because of loss of energy infrastructure in the course of those extreme weather events.

The question has to be asked: at what point is Australia going to recognise that for Infrastructure Australia, assessment of projects has to include the worst-case scenarios for climate adaptation? A moment ago my colleague Senator Ludlam spoke about decarbonising the economy, which is essential. Let me give you the example of the bushfires in Victoria—sparking from overhead powerlines was one of the main causes of huge loss of life. Significant recommendations have come from the royal commission that in order to remove those risks, powerlines need to be undergrounded or, alternatively in some places, to cease and to not have the infrastructure going out there. Instead have renewable energy systems that are decentralised, so you are actually protecting the communities but stopping the potential for sparking in between. That is the kind of anticipatory action that the Victorian government, together with the power companies—the distribution and transmission companies—should have been bringing forward to Infrastructure Australia to look at reducing fire risk and cost in the longer term in Victoria. Those actions give you competitiveness in terms of power supply, more safety in terms of fire, and less in infrastructure costs. They are the sorts of things you need to be considering.

The other point with infrastructure was made very strongly by CEDA in a recent report: that there is a very real risk that Australia will be bypassed for the foreign capital that is necessary to fund infrastructure in this country, because the international capital flow is going to go to countries that are dealing with the real risks associated with climate change, that are decarbonising the economy, and that are building the kinds of infrastructure that will serve a decarbonised economy into the future. By going in the wrong direction and not putting these climate considerations at front and centre, Australia stands to be effectively bypassed by
international capital, because that capital will assess climate risk in any project. It is not just the climate risk in terms of the loss of that infrastructure; it is climate risk in terms of whether that infrastructure becomes a stranded asset—sunk and dead capital into the future. There is no doubt in my mind that there are plenty of ports up for proposal in Queensland that will end up as stranded assets if they are built, not to mention the coal railway lines and the mines that are being considered.

In recent times there have been several cancellations with regard to major infrastructure projects in Queensland—not least of which is a big port—because international capital has been withdrawn from the projects on the basis that it is likely to be a stranded asset. Given that the Chinese are going to cap their climate emissions and their use of coal, anyone who invests in a coal port in Queensland is sinking their money into a dead hole and an asset divested from major pension funds and other funds around the world. If there is one thing Infrastructure Australia really needs to be looking at, it is those two essential elements—the costs to infrastructure into the future of a changing climate and the frequency and intensity of weather events; and, secondly, how Australia is going to fund the infrastructure that will lead to the decarbonisation of the economy and to attracting foreign capital into that infrastructure assessment. That is where I feel Australia is going to get further and further behind unless we actually deal with this. That is why I argued at the time that the one-off flood levy was a bad mistake—we should have a permanent fund which looks at doing preventive investment in infrastructure so we can minimise risks to people and property, minimise costs into the future and bring down and control insurance premiums.

Our failure to have done so has left us exposed very badly. I know the coalition does not care about this and is prepared to keep on seeing people end up with their houses devalued—there are places on the New South Wales coast now where if you are on the flat and subject to storm surge, your insurance premiums are so high that the value of your property is now really diminished compared with properties on the same street that are much higher up. It is becoming pretty obvious to people everywhere that failure to take this seriously is something that every Australian is going to be confronted with. The government could move to get some futuristic scenario planning and serious risk assessment done, rather than to pretend it is not happening, to pretend it is a one-off and to pretend that every time it happens we will somehow find the money to deal with it.

I strongly recommend this amendment to the Senate. It makes absolute sense to protect this country as best we can from damage, and to anticipate where we need to spend money and how we need to spend money (a) to create more jobs and investment; and (b) to protect communities from the ravages that are coming.

The CHAIRMAN: The question is that amendment (10) on sheet 7482 be agreed to. Question negatived.

Senator LUDLAM (Western Australia) (21:15): I move Greens amendment (11) on sheet 7482:

(11) Schedule 1, item 8, page 6 (line 29), at the end of section 5C, add:

; (h) the impact of infrastructure on local ecological services and ecosystems;
(i) peak oil and resource depletion, as they relate to infrastructure;
(j) the contribution of infrastructure to the liveability, productivity and sustainability of Australia's cities and regions;

(k) the impact of infrastructure on the social amenity of local communities;

(l) social license from local communities for infrastructure projects.

We have dealt, I think, rather casually with climate change, given that neither the government nor the Labor Party supported the Greens amendment that would have given that clause some teeth. Nonetheless, climate considerations aside, there are a significant number of other issues that we think have had insufficient evaluation by Infrastructure Australia when it is considering projects. Again, this is not laying it all at IA's door, but this amendment would send the signal out to the planning community and to the state and territory governments and departments that, when they are pulling their projects together for a priority listing, if they want a favourable response from IA, these are the things they need to include and incorporate. It should not be too much to ask.

Senators are free to see Greens amendment (11). We have circulated it. What it puts in place is, firstly, the impact on local ecological services and ecosystems. This can be as simple as, for example, new sea walls or as important as modifying coastal environments, which can have catastrophic and largely unforeseen effects.

The amendment also requires coverage of peak oil and resource depletion. This is one of the areas where I had—although I respect him greatly for his independence and his intellect—dust-ups over a period of six years with Mr Michael Deegan, the Infrastructure Coordinator. The dust-ups were over Infrastructure Australia's methodology for working out what the future price of oil was going to be. Working in a carbon constrained future does not simply mean dealing with the pollution impacts of carbon emissions from the coal, oil and gas sectors; it also means dealing with the depletion aspect. This idea that we are just going to continually double up freeway infrastructure, for example, as though there is an infinite amount of oil on the planet, is mad. That kind of calculation needs to be factored into the way IA contemplates its prioritisation of infrastructure projects.

The item on 'the contribution of liveability, productivity and sustainability' is starting to feel a little on the doomed side—because that language has already been rejected by Labor and by the government. The impact on social amenity and the social licence from local communities for infrastructure projects—some of that is often forgotten. Is Prime Minister Abbott proposing to simply send bulldozers down people's streets? In the cases of the WestConnex project in New South Wales, the east-west tunnel in Victoria and the so-called Perth Freight Link—which proposes to smash tarmac through the Beeliar Wetlands and disrupt communities from one end of the City of Perth to another—these projects have no social licence. At one end of the spectrum, that simply means that these projects end up being significantly delayed or much more expensive than they should have been in the first place. At the other end of the spectrum, you end up with effective community opposition to projects that end up being stopped—a lot of planning resources and expertise and a lot of money wasted, and communities being forced on the defensive to fight repetitive acts of stupidity that they simply should not have to. That is what is going on right now in Melbourne, Sydney and Perth—around Commonwealth infrastructure projects that were not on the priority list, projects out of nowhere that have been brought forward and funded. For projects like the Roe 8, the Perth Freight Link, the bureaucrats at the table during estimates week did not know
where the project went, what its alignment was, whether it was an elevated freeway or whether it was going to simply dump vast amounts of container traffic into the approach roads to the Port of Fremantle in North Freo.

I strongly commend these amendments to the chamber. Infrastructure is not just about spreadsheets and concrete pours; it is about people and it is about the landscapes and the host communities in which these projects are built.

Senator CONROY (Victoria—Deputy Leader of the Opposition in the Senate) (21:19): Again, after much deliberation, we have decided to oppose these amendments as too prescriptive in the context of a bill for an advisory body of experts. We believe these factors are accounted for in other areas of advice and we therefore will not be supporting this amendment.

Senator JOHNSTON (Western Australia—Minister for Defence) (21:19): I thank Senator Conroy for those remarks, with which the government agrees.

The CHAIRMAN: The question is that amendment (11) on sheet 7482 be agreed to. Question negatived.

Senator LUDLAM (Western Australia) (21:20): I advise that we will be withdrawing Greens amendment (12) on sheet 7482. This is one of the ones, as we discussed at the outset, where we think the government has substantially addressed the concern we sought to raise with our amendment. So I might let Senator Johnston run the argument for me when he, shortly, stands up and moves government amendment (3). That amendment is not entirely satisfactory, but there is substantial overlap between Greens amendment (12) and government amendment (3), which effectively talks about transparency and accountability. Rather than detaining us longer than necessary, therefore, we will not proceed with Greens amendment (12).

Senator JOHNSTON (Western Australia—Minister for Defence) (21:21): by leave—I move government amendments (5) and (6) on sheet AF272 together:

(5) Schedule 1, item 39, page 17 (line 8), omit "paragraph 5D(1)(c) or".
(6) Schedule 1, item 41, page 19 (line 6), omit "paragraph 5D(1)(c) or".

I note that our amendments oppose section 5D and item 8 of schedule 1. Through government amendment (3), we will be seeking that 5D, as amended, in item 8 of schedule 1 stand as printed. Government amendments (5) and (6) are consequent to that. The background, which Senator Ludlam invited me to comment upon, is that government amendment (3) deletes section 5D, which provided for functions to be performed only when directed by the minister. This has the effect of removing the minister's authority to direct Infrastructure Australia on the publication of materials and to confer additional functions, such as provisions for advice on the harmonisation of policies and laws relating to the development of and investment in infrastructure. The original intent of this section was to provide a positive power which allowed the minister to direct Infrastructure Australia to publish its findings, while striking the right balance with commercial-in-confidence matters. This will now be the responsibility of Infrastructure Australia, in accordance with general law principles, and those principles were set out in my summation to the second reading speeches.

Senator CONROY (Victoria—Deputy Leader of the Opposition in the Senate) (21:22): Just to confirm, have you moved government amendment (3)?
Senator JOHNSTON (Western Australia—Minister for Defence) (21:22): Amendments (5) and (6).

Senator CONROY (Victoria—Deputy Leader of the Opposition in the Senate) (21:22): You commented on amendment (3). I indicate that we support amendments (5) and (6), but when it comes to section 5D as amended in item 8 of schedule 1 to stand as printed, we will be opposing that. I want to make sure we are all on the same page and we know how we are voting on which ones.

Senator LUDLAM (Western Australia) (21:22): As I foreshadowed, it is good that the government has had a change of heart by seeking to withdraw its own amendment. Section 5D(1)(b) would have removed the requirement for IA to publish project evaluations and material used in those evaluations—the plans, audits and ancillary advice—other than at the direction of the minister. It is remarkable that that is something the government sought to do to this piece of legislation. We strongly believe, for reasons I have outlined at length, that transparency and independence should be enhanced and not curtailed. The Moving People 2030 Taskforce provided a particularly compelling submission during the inquiry process into the bill. On this amendment in particular they said:

... this will completely undermine the credibility of Infrastructure Australia and its value to the nation. It runs counter to the principles of consultation and transparency which any attempt to obtain consensus on a national infrastructure plan must accept.

IA should publish draft and final evaluations and reports immediately and without the need for one by one approval by a minister.

We are particularly encouraged that the government has withdrawn amendment 5D, because it was also proposing really outrageous discretions in relation to material that it could deem commercial-in-confidence. I am not one of those people who believes that commercial-in-confidence considerations trump everything else—trump the public interest and trump the public's right to know. Commercial-in-confidence is used almost as widely as 'national security' as a proxy for simply closing debate down and precluding the release of material that belongs in the public domain. We believe that material, including commercial-in-confidence material, should be published where it is necessary to assess the public benefit of a proposal or an evaluation paid for by taxpayers dollars.

Prime Minister Abbott signed a $900 million cheque to the Barnett government to build the railway white elephant, while claiming a cost-benefit ratio of 5:1 and refusing to publish the supporting material. They are saying that you just have to trust them. This absurd freeway—this affront to the local community, the ecosystems and to the Aboriginal heritage—has a 5:1 cost-benefit ratio, and you cannot know how that figure was arrived at. You just have to trust the government. Well, guess what? We do not.

This is a positive amendment that the government has put forward. My understanding is that Senator Johnston is moving amendments (5) and (6) together and then will separately put the question that we will collectively oppose clause 3. If that is the way you run it, the Greens will be supporting these amendments.

The TEMPORARY CHAIRMAN: The question is that government amendments (5) and (6) be agreed to.

Question agreed to.
Senator JOHNSTON (Western Australia—Minister for Defence) (21:25): I move government amendment (3) on sheet AF272:

(3) Schedule 1, item 8, page 6 (line 30) to page 7 (line 18), section 5D to be opposed.

The TEMPORARY CHAIRMAN: The question is that section 5D in item 8 of schedule 1 stand as printed.

Question negatived.

The TEMPORARY CHAIRMAN: We will now consider opposition amendment (13) on sheet 7463.

Senator CONROY (Victoria—Deputy Leader of the Opposition in the Senate) (21:26): We withdraw that proposed amendment in favour of government amendment (3).

The TEMPORARY CHAIRMAN: We will now consider opposition amendment (14) on sheet 7463.

Senator CONROY: by leave—I move opposition amendment (14) on sheet 7463:

(14) Schedule 1, item 9, page 7 (line 19) to page 8 (line 3), omit the item, substitute:

9 Subsection 6(4)
Repeal the subsection, substitute:

(4) However, the Minister must not give directions about the content of any audit, list, evaluation, plan or advice to be provided by Infrastructure Australia.

We believe our amendment is better worded and we note the government has agreed to withdraw this change. We prefer our resulting wording as being more comprehensive than the government's, so we prefer our amendment. It retains the existing general power of the minister to direct IA in its functions, but subject now to relating to content of its output. This is a narrower power that restricts the minister's input to not affecting outputs. The proposal is to retain the existing power. This amendment preserves the independence of IA. Without it, IA ceases to be independent at all. So we consider this to be a very fundamental position.

Senator JOHNSTON (Western Australia—Minister for Defence) (21:27): I can confirm that I think the opposition amendment is not greatly inconsistent with the government's amendments and we do not oppose it.

Senator LUDLAM (Western Australia) (21:27): An outbreak of consensus. We also will be supporting this opposition amendment. I guess you, Senator Johnston, are foreshadowing that you might then drop government amendment (4), which is next up on the running sheet, for reasons very similar to those that Senator Conroy has indicated.

The TEMPORARY CHAIRMAN: The question is that opposition amendment (14) on sheet 7463 be agreed to.

Question agreed to.

The TEMPORARY CHAIRMAN: We will now consider government amendment (4) on sheet AF272.

Senator JOHNSTON (Western Australia—Minister for Defence) (21:28): This is the same as the previous situation with respect to 5D. In essence when you declared that item 9 as amended on schedule 1 stand as printed, we will be opposed to that, and that achieves the
purposes of the previous clause and where we want to be with respect to this clause. I am hoping the Clerk will assist in confirming that.

The TEMPORARY CHAIRMAN: The advice that I have in front of me is that should this proceed it will override the outcome that has just been agreed to by consensus in opposition amendment (14), which preceded this matter.

Senator JOHNSTON: I am advised to seek leave to withdraw item (4). That solves the problem.

Leave granted.

Senator LUDBLAM (Western Australia) (21:30): I will move Greens amendments (13) on sheet 7482. I am horrified that Senator Conroy appears to be about to vote one of (13) and (14) down, so hopefully I have got government support. I move Greens amendment (13):

(13) Schedule 1, item 10, page 8 (line 26), after "consumer", insert ", academic, professional".

This is again not a set of handcuffs but guidance to Infrastructure Australia as to who it consults with and also to ensure that project proponents are consulting with certain categories of people. I would not have thought that that was too much to ask. We will test the will of the chamber now, as to whether Australian Greens amendment (13) will prevail. I strongly commend it to the chamber.

Senator CONROY (Victoria—Deputy Leader of the Opposition in the Senate) (21:31): Could I indicate that we are supporting amendment (13).

Senator JOHNSTON (Western Australia—Minister for Defence) (21:31): We are opposed to this amendment, because clearly 'academic, professional' is too prescriptive.

The TEMPORARY CHAIRMAN: The question is that amendment (13) on sheet 7482 be agreed to.

Question agreed to.

Senator LUDBLAM (Western Australia) (21:31): I move Greens amendment (14) on sheet 7482:

(14) Schedule 1, item 10, page 8 (line 28), at the end of section 6B, add:

; (c) local communities.

This once again adds local communities as a group that it should consult with in performing its functions. I just hope that Senator Conroy has run into a little bit of an administrative error at about this point and that they do not propose to oppose a Greens amendment that says that local communities are a group that should also be consulted with in performing its functions. This is something that goes to the heart of the way that infrastructure is done. They cannot sit in an office on the other side of the country, dropping infrastructure projects in from Google Earth. These things affect people. They actually affect local communities.

If you travel out, there are instances where this has been done. The best example that I know of was a project that Alannah MacTiernan ran when she was Minister for Planning in Perth. That was a process that went deliberatively into the city of Perth, surrounded a random sample of residents from all quarters of the community with experts and ran an extraordinary process, which came out with a blueprint that was actually very green. You get the right answers if you ask good questions. We are not asking for a great deal more than that. I hope that Senator Conroy now leaps to his feet and says that it has all been a terrible mistake and
that local communities are actually materially important when it comes to assessing infrastructure projects. I commend this amendment to the Senate.

Senator CONROY (Victoria—Deputy Leader of the Opposition in the Senate) (21:33): It is late in the evening to be breaking poor Senator Ludlam's heart, but I am afraid I must. We are opposing this because we believe the proposed provision is in part addressed elsewhere, covered by EIS processes. We actually put a lot of store in EIS processes, so we believe that it does seek to do most of what you are describing. This bill does not seek to displace it and is open-ended. We are not quite as comfortable with your definition, as you have so eloquently described it, and we believe that we have reasonably covered this in EIS processes.

Senator JOHNSTON (Western Australia—Minister for Defence) (21:34): The government agrees with the very learned position of Senator Conroy.

The TEMPORARY CHAIRMAN: The question is that Greens amendment (14) on sheet 7482 revised be agreed to.

The committee divided. [21:38]

(The Temporary Chairman—Senator Furner)

Ayes .................10
Noes .................36
Majority .............26

AYES
Di Natale, R
Ludlam, S
Rhiannon, L
Waters, LJ
Wright, PL

Hannon-Young, SC
Milne, C
Siewert, R (teller)
Whish-Wilson, PS
Xenophon, N

NOES
Back, CJ
Bishop, TM
Brown, CL
Cameron, DN
Conroy, SM
Edwards, S
Farrell, D
Gallacher, AM
Lines, S
McEwen, A (teller)
McLucas, J
O'Neill, DM
Peris, N
Ruston, A
Seselja, Z
Smith, D
Sterle, G
Urquhart, AE

Bernardi, C
Boyce, SK
Bushby, DC
Carr, KJ
Dastyari, S
Eggleston, A
Furner, ML
Johnston, D
Ludwig, JW
McKenzie, B
Moore, CM
O'Sullivan, B
Polley, H
Scullion, NG
Singh, LM
Stephens, U
Tillem, M
Williams, JR

Question negatived.
The TEMPORARY CHAIRMAN (Senator Whish-Wilson) (21:41): We now move to opposition amendments (15) to (18) on sheet 7463 revised.

Senator CONROY (Victoria—Deputy Leader of the Opposition in the Senate) (21:41): by leave—I move opposition amendments (15) to (18) on sheet 7463 revised together:

(15) Schedule 1, item 39, page 16 (line 15), omit "functions;", substitute "functions."

(16) Schedule 1, item 39, page 16 (line 16), paragraph (3)(d), omit the paragraph.

(17) Schedule 1, item 39, page 16 (lines 17 and 18), subsection 39B(4), omit the subsection.

(18) Schedule 1, item 39, page 16 (line 28) to page 17 (line 2), subsections 39B(7) and (8), omit the subsections.

These amendments allow IA to finalise its own corporate plan rather than require the minister's sign-off. The board must consult with the minister in preparation of its corporate plan. These amendments keep IA at arm's length from the minister but require it to consult the minister. These amendments are consistent with independence and transparency for an expert advisory body under the CAC Act. In its generic form, CAC Act bodies do not require ministerial approval for board approved corporate plans. CAC agencies that do require ministerial sign-off include the ABC, SBS, Commonwealth super, EFIC, CSIRO, the RBA and the National Transport Commission.

Senator LUDLAM (Western Australia) (21:42): I indicate that the Australian Greens will be supporting these amendments. Senator Conroy has expressed how they bring IA functions into line with similar entities. IA will retain a degree of independence. Again, these amendments reduce that potential for ministerial interference. The interference happens later, once Infrastructure Australia has made its judgement call. We do not want ministers reaching in and cooking these processes while they are afoot. We are happy to support these amendments.

Senator JOHNSTON (Western Australia—Minister for Defence) (21:43): I am advised that, after due consideration, we will not oppose these amendments.

The TEMPORARY CHAIRMAN (Senator Whish-Wilson): The question is that amendments (15) to (18) on sheet 7463 be agreed to.

Question agreed to.

Senator CONROY (Victoria—Deputy Leader of the Opposition in the Senate) (21:43): by leave, I move opposition amendments (21) to (26) on revised sheet 7463 together:

(21) Schedule 1, Part 2, page 21 (line 1) to page 27 (line 22), omit the Part, substitute:

Part 2—Consequential amendments

Income Tax Assessment Act 1997

43 Section 415-1

Omit "Infrastructure Coordinator", substitute "Infrastructure CEO".

44 Paragraph 415-15(3)(c)

Omit "Infrastructure Coordinator", substitute "*Infrastructure CEO".

45 Subsection 415-15(3) (note)

Omit "Infrastructure Coordinator" (wherever occurring), substitute "Infrastructure CEO".

46 Paragraph 415-20(2)(c) (note)
Omit "paragraph 5(2)(b)", substitute "paragraph 5(b)".

47 Section 415-50
Omit "Infrastructure Coordinator", substitute "Infrastructure CEO".

48 Subsection 415-55(1)
Omit "Infrastructure Coordinator" (first occurring), substitute "Infrastructure CEO".

49 Subsection 415-55(1)
Omit "Infrastructure Coordinator" (second occurring), substitute "Infrastructure CEO".

50 Subsection 415-55(1) (note)
Omit "Infrastructure Coordinator", substitute "Infrastructure CEO".

51 Paragraph 415-55(4)(a)
Omit "Infrastructure Coordinator", substitute "Infrastructure CEO".

52 At the end of section 415-55
Add:
(5) A fee prescribed as mentioned in paragraph (4)(b) is payable to the *Infrastructure CEO, on behalf of the Commonwealth.

53 Subsection 415-60(1)
Omit "Infrastructure Coordinator", substitute "Infrastructure CEO".

54 Paragraph 415-60(2)(a)
Omit "Infrastructure Coordinator", substitute "Infrastructure CEO".

55 Paragraph 415-60(2)(b)
Omit "Infrastructure Coordinator" (wherever occurring), substitute "Infrastructure CEO".

56 Subsection 415-60(3)
Omit "Infrastructure Coordinator" (first occurring), substitute "Infrastructure CEO".

57 Paragraph 415-60(3)(b)
Omit "Infrastructure Coordinator", substitute "Infrastructure CEO".

58 Subsections 415-60(4) and (5)
Omit "Infrastructure Coordinator", substitute "Infrastructure CEO".

59 Subsection 415-65(1)
Omit "Infrastructure Coordinator" (first occurring), substitute "Infrastructure CEO".

60 Subsection 415-65(1)
Omit "Infrastructure Coordinator" (second, third and fourth occurring), substitute "Infrastructure CEO".

61 Subsection 415-65(3)
Omit "Infrastructure Coordinator" (first occurring), substitute "Infrastructure CEO".

62 Subsection 415-65(3)
Omit "Infrastructure Coordinator" (second occurring), substitute "Infrastructure CEO".

63 Subsection 415-65(5)
Omit "Infrastructure Coordinator" (first occurring), substitute "Infrastructure CEO".

64 Subsection 415-65(5)
Omit "Infrastructure Coordinator" (second, third and fourth occurring), substitute "Infrastructure CEO".

65 Paragraph 415-65(6)(a)
Omit "Infrastructure Coordinator", substitute "*Infrastructure CEO".

66 Paragraph 415-65(6)(b)
Omit "Infrastructure Coordinator", substitute "Infrastructure CEO".

67 Subsection 415-65(7)
Omit "Infrastructure Coordinator" (first occurring), substitute "*Infrastructure CEO".

68 Subsection 415-65(7)
Omit "Infrastructure Coordinator" (second occurring), substitute "Infrastructure CEO".

69 Subsection 415-70(1)
Omit "Infrastructure Coordinator" (first occurring), substitute "*Infrastructure CEO".

70 Paragraph 415-70(1)(a) and (b)
Omit "Infrastructure Coordinator", substitute "Infrastructure CEO".

71 Paragraph 415-70(2)(a)
Omit "Infrastructure Coordinator", substitute "*Infrastructure CEO".

72 Paragraph 415-70(2)(b)
Omit "Infrastructure Coordinator", substitute "Infrastructure CEO".

73 Subsection 415-70(4)
Omit "Infrastructure Coordinator" (first occurring), substitute "*Infrastructure CEO".

74 Subsection 415-70(4)
Omit "Infrastructure Coordinator" (second occurring), substitute "Infrastructure CEO".

75 Subsection 415-70(6)
Omit "Infrastructure Coordinator" (first occurring), substitute "*Infrastructure CEO".

76 Subsection 415-70(6)
Omit "Infrastructure Coordinator" (second occurring), substitute "Infrastructure CEO".

77 Paragraph 415-70(7)(a)
Omit "Infrastructure Coordinator", substitute "*Infrastructure CEO".

78 Paragraph 415-70(7)(b)
Omit "Infrastructure Coordinator", substitute "Infrastructure CEO".

79 Paragraph 415-70(8)
Omit "Infrastructure Coordinator" (first occurring), substitute "*Infrastructure CEO".

80 Paragraph 415-70(8)
Omit "Infrastructure Coordinator" (second occurring), substitute "Infrastructure CEO".

81 Subsection 415-70(9) (heading)
Repeal the heading, substitute:
Infrastructure CEO must notify Commissioner

82 Subsection 415-70(9)
Omit "Infrastructure Coordinator" (first occurring), substitute "*Infrastructure CEO".

83 Subsection 415-70(9)
Omit "Infrastructure Coordinator" (second occurring), substitute "Infrastructure CEO".

**Subsection 415-75(3) (note)**
Omit "paragraph 5(2)(b)", substitute "paragraph 5(b)".

**Subsection 415-80(1)**
Omit "Infrastructure Coordinator" (first occurring), substitute "Infrastructure CEO".

**Paragraph 415-80(1)(b)**
Omit "Infrastructure Coordinator", substitute "Infrastructure CEO".

**Subsection 415-80(2)**
Omit "Infrastructure Coordinator", substitute "Infrastructure CEO".

**Subsection 415-80(3)**
Omit "Infrastructure Coordinator" (first occurring), substitute "Infrastructure CEO".

**Paragraph 415-80(4)(a)**
Omit "Infrastructure Coordinator", substitute "Infrastructure CEO".

**Paragraph 415-80(4)(b)**
Omit "Infrastructure Coordinator", substitute "Infrastructure CEO".

**Subsection 415-80(5)**
Omit "Infrastructure Coordinator" (first occurring), substitute "Infrastructure CEO".

**Subsection 415-80(5)**
Omit "Infrastructure Coordinator" (second occurring), substitute "Infrastructure CEO".

**Paragraph 415-80(6)(a)**
Omit "Infrastructure Coordinator", substitute "Infrastructure CEO".

**Sections 415-85 and 415-90**
Omit "Infrastructure Coordinator", substitute "Infrastructure CEO".

**Section 415-95**
Omit "Infrastructure Coordinator" (first occurring), substitute "Infrastructure CEO".

**Section 415-95**
Omit "Infrastructure Coordinator's" (second occurring), substitute "Infrastructure CEO's".

**Section 415-95**
Omit "Infrastructure Coordinator" (last occurring), substitute "Infrastructure CEO".

**Subsection 995-1(1)**
Insert:

*Infrastructure CEO* means the Chief Executive Officer of Infrastructure Australia appointed under section 29 of the *Infrastructure Australia Act 2008*.

(22) Schedule 2, item 8, page 33 (lines 13 to 15), omit paragraphs (2)(b) and (c), substitute:

(b) the CEO.

(23) Schedule 2, item 12, page 37 (lines 13 and 14), omit "responsible person under section 415-95 of that Act", substitute "CEO".
(24) Schedule 2, item 12, page 37 (line 29), omit "responsible person mentioned in that subitem in relation to the thing", substitute "CEO".

(25) Schedule 2, item 12, page 37 (line 32) to page 38 (line 5), omit subitem (4), substitute:

(4) The Minister may, by writing, determine that subitem (1) does not apply in relation to a specified thing done by, or in relation to, the Infrastructure Coordinator. The determination has effect accordingly.

(26) Schedule 2, item 13, page 38 (lines 12 and 13), omit "responsible person for the purposes of the provision under section 415-95 of that Act", substitute "CEO".

Given that government amendment (5) has been passed, we withdraw item (19). The final amendments (21) to (26) amend the Income Tax Assessment Act to retain the existing IA role in approval of income tax offsets for designated infrastructure projects. The bill seeks to allocate this role to a public servant, potentially outside IA. This change vests that role in the CEO, just as it sits now with the Infrastructure Coordinator. This is an important Labor reform, which was introduced in the 2013 budget, aimed at encouraging greater private sector involvement in public infrastructure projects. It is appropriate that the infrastructure experts in IA retain this role to cement its role.

Senator LUDLAM (Western Australia) (21:44): My understanding—Senator Conroy has expressed this—is that basically this amendment reverts back to the original language and function of Infrastructure Australia. The Greens are confident to support this amendment.

Senator JOHNSTON (Western Australia—Minister for Defence) (21:44): The government cannot support this amendment. It removes the power of the minister to designate an appropriate person or persons to carry out functions under the tax act. We think this is inappropriate and that it should be left to the tax commissioner.

The TEMPORARY CHAIRMAN (Senator Whish-Wilson): The question is that amendments (21) to (26) on sheet 7463 be agreed to.

Question agreed to.

Bill, as amended, agreed to.

Bill reported with amendments; report adopted.

Third Reading

Senator JOHNSTON (Western Australia—Minister for Defence) (21:46): I move:

That this bill be now read a third time.

Question agreed to.

Bills read a third time.

ADJOURNMENT

Senator JOHNSTON (Western Australia—Minister for Defence) (21:47): I move:

That the Senate do now adjourn.

Abbott Government

Senator LUDWIG (Queensland) (21:47): Good policy does not live in a vacuum and it is not an 'operational matter'. Under Mr Abbott's government, policy has become a descriptor for repeated slaps in the face to the Australian people. The days of sensible government decision making went with the election of the Abbott government. Government policy announcements
are more akin to an ambush or a hit-and-run. The days of working up detailed policies, consulting on them, bringing in the community and building consensus are long gone under Mr Abbott's team of misfits. Good policy might well start in-house, but ultimately it must be owned by the community.

Let us remember what they said they would be like when they got into government just nine short months ago. On 18 September 2013, Paul Kelly, in The Australian, wrote:

Tony Abbott has signalled a new style of Coalition government based on collaborative ties with business, a clearer set of priorities, less frenetic, more predictable and geared to stability, not fashion.

With the exception of being out of fashion, it is hard to see much else that has held true. In his own words, the Prime Minister, on 16 September 2013, said:

The Australian people expect a government that is upfront, speaks plainly and does the essentials well. That is Mr Tony Abbott's own yardstick. He has, in fact, failed to meet that measure time and time again.

So let us look at the record of failures under this government: the triple backflip over Better Schools funding; the botched Qantas support plan; pushing Holden off a cliff and daring Toyota to leave Australia too, throwing manufacturing jobs under a bus; handing billions of dollars to the Reserve bank without prompting; doubling the deficit; an uncapped increase on the nation's credit card; the radical proposed changes to the Racial Discrimination Act; the unwinding of Freedom of Information laws; the repeated clampdown on secrecy and a lack of transparency on our borders and to our government; and—this is current—giving us a new foreign affairs policy, for the Middle East, courtesy of Senator Brandis. On each and every occasion the government failed to consult the Australian people, they failed to explain their plans or their policies and they failed their own measure of responsible, adult government.

Then they start just plain misleading, which brings me to the federal budget—the budget of broken promises and mistruths to the Australian people. It started with a scare and ended with horrors. The National Commission of Audit was always going to be ugly. When you put Dracula in charge of the blood bank you get some scary results, and that is what the IPA, the Business Council and Tony Shepherd delivered. The report in essence recommended the wholesale removal of the federal government from the Australian society and way of life.

I challenge any Liberal and National Party member to point to what three-word slogan suggested they would all but wind up the federal government and tell the sickest, the most vulnerable, people with a disability, seniors, job seekers, university students and lower and middle Australia that they were going to be on their own under an Abbott government. Which three-word slogan covered that promise? Which glossy flyer included that betrayal to the Australian way of life? That is what the Commission of Audit did. We assumed that it would be a scare campaign to soften up the expectations of the federal budget. What we did not appreciate was that it would be an actual blueprint for their actions in government.

On budget night the Treasurer danced in his office to the song Best Day of My Life and then he went into the chamber and danced on the grave of the Liberal Party's election promises. By the time the Treasurer sat down at 8.01 pm there could be no doubt that this was not the government that the Australian people had been promised. Curiously, the budget nasties were not hidden in the back pages, hoping that no-one would find them. They were the
centrepiece of the budget. There was not a constituency that had not been betrayed, there was not a promise left unbroken and there was not a group of Australians that had not been misled.

You will remember these phrases from before the election: 'no cuts to education'—broken; 'no cuts to health'—broken; 'no changes to pensions'—broken; 'less taxes, not more'—broken. The dismantling of Medicare, leaving lower and middle income households worse off, punishing young job seekers, adding greater debt to students, and doing away with transparency and accountability reforms are all attacks on the Australian way of life and all part of the coalition's budget of broken promises. When Senator Williams told the ABC that he could not find a single person in the community that supported the government's paid parental leave scheme he could well have been referring to the entire budget.

The Labor Party stands strongly against this budget and against the hurt being inflicted on lower- and middle-income families by Mr Tony Abbott and Mr Joe Hockey. We oppose the attacks and we also oppose the methods that have been used by what used to call itself 'an adult and responsible' government. They have certainly dropped that phrase in recent times.

Let us look at the yardstick again that this government set. 'A new style of coalition government'—nope, this is the Liberal-National playbook used by Mr Campbell Newman in Queensland. 'Collaborative ties with business' was the phrase they used—just ask Qantas, Holden and SPC what they think about that. They said, 'A clearer set of priorities'—this one might just sneak through, because they aim consistently and negatively at lower and middle Australia. 'Less frenetic' was their version—not one but two backflips on Better Schools funding. They claimed, 'More predictable'—who could have seen Knights and Dames coming? 'Geared to stability'—I think that went out the door as Mr Turnbull left the Wild Duck restaurant, quite frankly. A fail mark on every score.

There is another way to develop, consider and implement policy in Australia. The Better Schools, or Gonksi, and NDIS conversations were two high points in policy development. Integrating solid values by government, community ownership of an idea, social media buy-in and a national wave of support, they are two detailed nation-changing policies which are now reality. They both followed similar processes: they started with a set of values expressed clearly by government, followed by detailed consultation and subsequent reports by experts in the field, all released and shared with community. A national debate flowed from those proposals and government listened and moved with the community. Along the way, a national debate and two strong grassroots movements emerged, completely independent of government's own media campaign. They struck a nerve because they treated the Australian people like adults.

The reason that the 'Every Australian Counts' and 'I give a Gonski' campaigns were able to form and support a government policy was because the policy development was conducted incrementally, carefully and in full public gaze. Labor brought the community in and we are all the stronger for it. Both policies were floated and allowed the space to percolate, connect and resonate with the community. Government was confident enough in itself to let the ideas grow outside of its grasp. It showed maturity and the nation was rewarded with policy outcomes.

Labor's policy processes have begun again and we are again showing maturity in our policy processes. The national policy forum is full steam ahead, with local forums being held regularly. New members to the Labor caucus are not being sidelined, like in the coalition, but
are actively driving change. Our newest crop of Labor politicians contains serious policy and political grunt. Dr Jim Chalmers, my own local member, sits comfortably in this cohort and is holding regular policy forums across regional Queensland, and I look forward to hosting a few with him.

Bob Hawke used to say, 'If you can't ride two horses at the same time you should get out of the circus.' The two horses that any modern political party needs to ride are day-to-day politics and long-term policy development. Working together and riding in the same direction is something Labor is doing now as we take the fight up to the government and develop long-term strategies for the party and the nation's future. While we are riding two horses, Tony Abbott is looking more like a failed rodeo clown.

Evans, Mr Ray

Senator RYAN (Victoria—Parliamentary Secretary to the Minister for Education) (21:57): I rise to speak on the passing of a great Australian. Last week, at the age of 74, Ray Evans passed away. My friend John Roskam, in *The Financial Review*, wrote that Ray:

…had more influence on politics and policy in Australia than 95 per cent of MPs who have been in the federal Parliament, and 99 per cent of MPs who have ever been in a state Parliament.

I am not sure whether Ray would have agreed with that distinction, for he was a committed federalist.

Ray was a true public intellectual. He was involved in every major policy debate we have had for several decades: dismantling protection, the end of arbitration, Indigenous affairs, the republic and federalism, to name just a few of the areas to which he devoted his energies. He argued and campaigned for causes absent public subsidy, support or control, utilising those resources and people that he could muster in the support of ideas. His passion, intellect and organisational capacity would ensure he was the driving force behind a range of groups, all comprised of volunteers who came together for no reason other than belief in a cause. Time tonight gives me the opportunity to mention only a few.

Ray had a range of policy passions in his life, but first and foremost, the issue that drove him to national attention was Australia's labour market. Its advocates argued that our system of industrial arbitration was unique to Australia. Ray agreed with this assertion; he just disagreed on its impact. He outlined that it was a unique cost, that it imposed a unique burden on the productive sectors of our economy and on those locked out of work. As one of the four founding members of the HR Nicholls society—along with John Stone, Peter Costello and Barrie Purvis—Ray led the intellectual battle that eventually saw arbitration at least partly dismantled. A small group, founded on nothing more than the powerful idea that there is dignity in labour and in a person's right to sell it, would transform eight decades of regulation and control.

Ray never minced words, and he always had a pointed turn of phrase, especially about this arbitration regime, and particularly in reference to those upon whom it imposed the greatest costs. I quote Ray:

And thus we have, as Higgins' legacy, a huge regulatory apparatus, in which employment contracts are regulated to an extraordinary degree; but, most importantly, employment contracts, which would benefit the least skilled, the least qualified, the least physically and intellectually endowed, are declared unlawful by our regulators, because the wages which would make these people employable are deemed by the regulators to be inadequate …
He would not restrain his comments regarding those others accused of being his friends, either, saying of the Howard government:

The particular group most affected by this regulatory insanity are men with few skills, no qualifications, and who are over fifty. And they have no one to speak for them. Not ACOSS, not the churches, not the unions, not the ALP and, regrettably, not the Government.

To Ray, the imposition of the costs of our labour market regulation on those denied the opportunity to sell their labour—denied a job by rules we imposed—was as much a moral issue as it was an economic one. In this area like all others, he was governed by his arguments, based on fact and reasoning and as well-researched as any others in his chosen fields. But he played as hard as anyone, and never pulled his punches from those on this side of the chamber.

In intellectual debate, Ray did not play the man, he played the ball. For Ray was about the idea, not the tribe. Ray was not afraid of announcing inconvenient truths, an apt phrase given his work in the Lavoisier Group and his long campaign against unilateral actions of economic self-harm by Australia by what he described as 'imperium viridis'. But he was also motivated by more than that; he was proudly committed to these decisions being taken democratically, without authority being ceded to unaccountable international authorities.

The place where I knew Ray best was through the Samuel Griffith Society. Ray was always a committed federalist, he understood that federalism has two practical advantages. First, it allows the states to be laboratories, both good and bad. As a Victorian, in the space of the single decade of the 1990s I often had cause to support this argument with examples of both: while the excesses of Cain and Kirner were confined to Victoria, the radical liberal reforms of Kennett and Stockdale were enacted in the teeth of national opposition. Second and more importantly, federalism constrained power.

Ray exhibited that trait most uncommon in many so-called public intellectuals—that of humility. Whether it was about the labour market, Indigenous policy or environmental policy, Ray's was always a voice for reminding politicians and bureaucrats of the limits of our knowledge and power. Ray would remind us that many problems would be avoided if we simply stopped assuming we could solve problems with the stroke of a pen, a conspicuous declaration or even an international conference of the self-declared good and worthy.

I can imagine that last week's High Court ruling in the second Williams case would have brought a small smile to Ray. I do not know what he thought of the chaplaincy program, but I can imagine that anything that constrained the power of the Commonwealth to unilaterally spend would please his federalist tendencies.

I can only say to those who knew Ray on this side of the chamber at least that there is a stronger federalist voice than there has been for many years, and part of that is due to the work of the Samuel Griffith Society he helped create. I will not be so arrogant as to claim I was a close friend of Ray, but I can claim to have been inspired by him and to have been a student of his efforts. In that I am not alone, for there are many who walk in his footsteps, particularly on labour market reform—many unknowingly.

Ray was always generous of his time to those who shared his interest in intellectual inquiry and debate. I will conclude on an anecdote I have of Ray, a friendly argument I know that others have had with him. With a large smile and a few laughs at the futility of his cause, he would engage in an attempt to convince some of us that the imperial system was easier to use
than metric. While it was unimaginable to someone like me, born in the 1970s, he brought to this argument the extensive historical knowledge and good nature he brought to all others.

To Jill and the Evans family, my best wishes during this time of mourning. Thank you for sharing him with us all these years. Rest in peace, Ray Evans. The nation is poorer for your passing, but immeasurably wealthier in every form for the manner of your living.

National Water Commission

Senator RHIANNON (New South Wales) (22:03): Among the numerous disappointments coming from the federal government, it is fair to say that the decision to shut down the National Water Commission is but one. But this is one that deserves close attention.

As a nation, we are facing major challenges to our water supplies. The biggest threat, however, is the complete disregard from the federal government for the importance of this issue.

We are currently facing the likelihood of an El Nino weather pattern and with that increased risk of drought. At the same time, climate change continues to make it difficult to predict weather patterns. The Murray-Darling Basin plan is yet to be fully delivered, and we have ongoing conflicts around land-use over mining and its associated problems relating to water supply and safety. It is clear that now, more than ever, we need a national body to oversee the development of water policy that will protect agriculture, farming communities, our food supplies and our environment.

The government, however, is turning its back on our only independent body to oversee water policy. This is absolute incompetence. At every chance they can get, this government is turning away from their responsibilities to manage the precious resources we have. They are throwing away their responsibility to protect the biodiversity of the nation, as well as protecting land and water from mining. This is the only way one can understand why the coalition is out to bury the National Water Commission.

One of our most prominent environmental challenges is managing the Murray-Darling Basin. The MDB Plan has taken years to pull together. From the release of the plan, it took 15 months for the states to sign up. A little more than a year ago, the National Water Commission's first report noted that progress on the plan had been slow. More recently, the government announced that they wanted to move away from direct investment in buying back water for the Murray-Darling and invest in infrastructure instead. Despite being two to three times more costly, this is the path the government has chosen. It makes sense from their point of view to get rid of the National Water Commission. Of course, you do not want anyone pointing out that you are putting the Murray-Darling Basin Plan at risk.

If there is anything the Murray-Darling Basin should have taught us, it is the need for a national perspective on water. The National Water Commission was originally set up as an independent body to monitor the implementation of the National Water Initiative. In their most recent assessment of this process, they again noted that progress had been 'disappointingly slow'. What does the government do in response? It does not investigate further barriers to reform nor push the states to get their act together and protect our water systems; instead it gets rid of the commission. In addition to their functions of assessing and monitoring the National Water Initiative, the National Water Commission identified priority issues for water reform. In doing so, they have highlighted the numerous exemptions given to
mining over water issues in some states. In 2010 the commission released a statement calling for 'a careful transparent and integrated consideration of water related impacts in all approval processes' for coal seam gas. Any cursory investigation into current processes shows that this is far from happening.

Across Australia, state coalition governments are increasingly moving to rationalise and to reduce their water departments. It seems that hiding from scrutiny over water issues is, across the board, coalition policy. Not only is the government getting rid of the National Water Commission, it is handing over the Environmental Protection and Biodiversity Conservation Act, including the water trigger which communities worked so hard to have put in place—and the states cannot be trusted to protect our water. This, presumably, is why MP Kevin Hogan has tried to negotiate a clause in the get-rid-of-the-EPBC bill, to ensure the states consider the advice of the Independent Expert Scientific Committee on Coal Seam Gas and Large Coal Mining Developments. But take heed: there are no actual mechanisms proposed to make sure the government can intervene. As my colleague, Senator Larissa Waters, has pointed out, the state governments have allowed the rampant expansion of the mining sector in the first place: handing responsibilities under the EPBC Act back to the states is tantamount to removing the legislation entirely.

I am sure that in Queensland, where the CSG industry is already running amok, it is no coincidence that they have already moved to shut down their water commission. It was shut down at the beginning of 2013. On 1 July 2013, we saw the creation of the GasFields Commission Queensland, which includes water and salt management as one of its portfolios. In with the gas commission, out with the water commission. This is surely a clear revelation of the government's priorities. And if that is not enough, there is more: let us consider the Carmichael project in the Galilee Basin. The Independent Expert Scientific Committee on Coal Seam Gas and Large Coal Mining Developments expressed concerns about the impact of the mine on groundwater, and said there was little confidence in the information provided by the proponent. Crucially, they highlighted the lack of knowledge available on connections of the coal seams to the Great Artesian Basin, as well as on the risks to local creeks and rivers. Despite this, the Newman government decided with the company, Adani, to approve the mine, which will produce up to sixty million tonnes of coal each year. The final approval process for the mine is currently sitting with the federal environment minister, and it remains to be seen whether the federal government will step in to protect our water. This case shows us just how problematic our current water policies are. And what is the federal government doing about it? Passing the responsibility back to the states, and removing the National Water Commission, which might have highlighted the problems with this. Could it be that the government feels it has more powerful interests to protect than the communities which rely on the water?

In my home state of New South Wales, I have spoken many times of the problems which mining-impacted communities are facing. A large part of the problem here is water. As the mining industry sprawls across the nation, and as new methods of extraction are developed, the attendant problems of water have become a prominent concern. There is already clear evidence from the US that fracking for coal-seam gas can cause methane contamination of drinking water. Even when it is not fracking for CSG, the mining process uses vast amounts of water and produces vast amounts of waste water. These are ongoing problems for
communities in the vicinity of mining projects, and this is one of the reasons why mining is so fiercely opposed across the country.

In March this year, a meeting of 600 community members in Narrabri called for a blanket ban on coal-seam gas in New South Wales. The community in north-western New South Wales is dealing with a number of controversial coal and coal-seam gas projects, including Whitehaven's Maules Creek mine and a large coal-seam gas project in the Pilliga run by mining giant Santos. Although it is only in the exploratory phase, the community has already felt the impact of the Santos project. After leaking uranium, lead, aluminium, arsenic, barium, boron and nickel from a storage pond into an aquifer last year, Santos was fined a measly $1,500—that would not even be petty cash for this company. Local farmers are alarmed and have been putting their freedom on the line. So far, 21 people have been arrested in the Pilliga. Ten of them are farmers. Some of them are now also looking at court proceedings, just to have Santos provide them with information that might relate to the bores on their land being contaminated—clearly work that the government should be doing, instead of forcing farmers to spend their time fighting in the courts.

Recently, the New South Wales government has announced that they are removing their water commissioner and collapsing the New South Wales Office of Water with the Metropolitan Water Directorate. Concurrently, we have seen the New South Wales Chief Scientist & Engineer claim that filtration of water in the Sydney catchment area would suffice to make the water safe for drinking, while at the same time noting that there is 'limited data to analyse the cumulative impact of mining activities in the area'. The Independent New South Wales Scientific Committee's 2005 listing of longwall coal mining as a key threatening process affecting surface and ground water hydrology receives nary a mention anywhere—surely, given the level of concern around water and mining issues, the removal of specialist independent oversight of water policy is a mistake. The National Farmers' Federation says we need an alternative. The Australian Water Association says it is short-sighted. And I would say it is outright negligent.

There is a strong narrative here. The National Water Commission says water reform is moving slowly. The federal government shuts it down. The government wants to change the direction of the Murray-Darling Basin. What a blatant political and negligent act. The closure of the Water Commission is more than just an efficiency measure; it is deliberately calculated to remove scrutiny over federal and state governments— (Time expired)

Infrastructure

Senator BACK (Western Australia—Second Deputy Government Whip in the Senate) (22:13): On a day when the whole question of Infrastructure Australia has been so much to the fore, as it has this evening, I thought it interesting to reflect on some of my own observations in this area, and on some of the work that has been done in the past. There are three pillars, as we know, upon which sustainable infrastructure must be built. The first is economic sustainability, the second is environmental sustainability, and the third is social sustainability. Of course, any project that does not measure up to all three of those aspects, it is arguable, should not proceed. We have had robust debate, even this evening in committee, on that question. The coalition's investment in infrastructure is based upon two core principles, having regard for those pillars. The first is that the project should be aligned to state priorities, and the second is that the project should be of national importance.
It was in July 2012 that I reported on a Senate inquiry for the then Education, Employment and Workplace Relations References Committee on the shortage of engineering and related employment skills in Australia. The terms of reference related to the demand for infrastructure delivery and the shortage of engineering and related employment skills in Australia. We looked at the issues associated with the delivery of infrastructure in terms of economic development, cost efficiency, safety and disputation; the impact of long-term outsourcing of engineering activities by government; retention in both the private and government sectors to address the skills shortage for engineers and those in the related trades; and the options for infrastructure development. What was interesting and relevant was that evidence that was presented to us, which we repeated in our report, was that an estimated $5 billion a year was lost on poor document preparation, poor tender allocation, poor execution of projects and having to then go back and redo the work afterwards. Subsequently I had representation in my office from a number of major project managers, who said to me, ‘When we first saw that figure of $5 billion a year we couldn’t believe it, so we sat down and started talking around the table.’ They said, ‘Not only were you right but we think that there’s an added $5 billion of cost in litigation associated with that original $5 billion.’

We made some recommendations at that time, and those people who may be listening to this would be very welcome to go and find out what some of those recommendations were. But it was in Senate estimates subsequently that I engaged with the then Infrastructure Australia commissioner, Mr Michael Deegan, on this very question. I asked him if they had in fact had a look at it. I want to record this evening my appreciation for the work done by Mr Michael Deegan. I always found him to be an incredibly erudite, knowledgeable witness in Senate estimates. He never seemed to come along with any assistance. He did not even seem to have notes, and whether I saw him in estimates or I saw him in Kalgoorlie in Western Australia addressing industry or I saw him in Perth addressing local governments and others I continued to be impressed by this man's knowledge.

Anyhow, he then determined, having learnt the results of our inquiry, to engage the services of Caravel and the Melbourne Business School to look further into this question of whether that $5 billion or $10 billion was in fact real. What was interesting was the fact that as a result of that work Caravel and the Melbourne School surveyed industry and government senior executives as to how they thought they went with project definition and project completion. By their own standards—and this is self-appraisal of a survey—they found that only 48 per cent of major infrastructure projects here in Australia met their baseline time, their cost and their quality objectives. What was interesting, of course, as they said in their report, was the inconvenient truth: that despite the massive effort expended by industry and government it is estimated that only 10 per cent improvement has occurred in a 20-year period. Initially people would blame poor project management. In fact, the overwhelming point to come out of the Caravel work is that it was not project management but project governance that was failing. It was the fact that those highly experienced engineers and others from the past who would have once overseen the project managers were in fact not there.

They allocated nine key performance indicators associated with governance, and they assessed themselves against those nine performance indicators, giving themselves a performance scorecard. And on that performance scorecard they judged themselves at 24 per cent against their own key performance indicators. You might ask, ‘How does that relate in
terms of dollars?" Well, it was absolutely incredible. It has been estimated that the annual capital spend on infrastructure in Australia is about $215 billion, of which $155 billion is in the private sector and $60 for governments. And, as we know, our Prime Minister, Mr Abbott, has claimed strongly that he will be an infrastructure Prime Minister, so we can expect those dollars to go up.

That 48 per cent failure, or 52 per cent success, together with a 40 per cent cost overrun, which the major companies and major government executives agreed happened, is causing us an estimated $30 billion of capital wastage each year and double that figure in operational waste. These figures are astounding—not the $5 billion that we identified or the $5 billion for litigation but indeed $30 billion in capital waste and another $60 billion in operational waste. The point being made is that if we could just improve the success rate by a measly 10 per cent it would yield a $9 billion saving. They estimated that NPV lost $40 billion per annum, representing 2.3 per cent of GDP.

So, it was very timely that we undertook that original inquiry. It was very timely that we engaged in that conversation with Infrastructure Australia. And I would certainly recommend to those involved in expenditure in infrastructure in this country that they get hold of that report by Caravel and the Melbourne Business School and study it very, very closely—the conclusions that project governance is not supporting effective project execution; that failure of governance is having a major impact on the Australian economy, its GDP and shareholder and taxpayer value; that the message is not getting through; that on top of project management we need that overarching experience of project governance. We need both government and individual performance. They are not being measured. What you do not measure you cannot manage and, as we all know, what you cannot manage you cannot change and, what you cannot change, you cannot improve.

What was interesting was the fact that came out in the conclusions of this report that there is a lot of potential benefit from modest investment. We are talking about bringing back often semi-retired senior engineers not to be involved in their day-to-day project management but to cast the slide ruler over the project management, to have a look at every aspect, to take a look at the risk aspects and to just see where things may be going wrong.

Senator Mark Bishop and I had the opportunity to meet with the Under Secretary of Defence for Acquisition in the Pentagon last November. This lady had responsibility for a budget of US$360 billion, which is not much short of the entire Australian revenue budget. We were talking to her about this very question of project governance. She took on board the sorts of activities that Senator Bishop was referring to that we have done in the Defence area.

So at a time when we are certainly seeing infrastructure projects building and a much greater investment, focus and attention on infrastructure, I urge that some of those conclusions of that report find their way into the policy and decision making of our government.

Senate adjourned at 10:23

DOCUMENTS

Tabling

The following documents were tabled by the Clerk:
Legislative instruments are identified by a Federal Register of Legislative Instruments (FRLI) number. An explanatory statement is tabled with an instrument unless otherwise indicated by an asterisk.

**Australian National University Act 1991**—


Programs and Awards Statute 2013—Graduate Coursework Awards Rules 2014 [F2014L00759].


**Broadcasting Services Act 1992**—

Broadcasting Services (Events) Notice (No. 1) 2010—

Amendment No. 7 of 2014 [F2014L00740].

Amendment No. 8 of 2014 [F2014L00744].


**Civil Aviation Act 1988**—

Civil Aviation Regulations 1988—Direction — number of cabin attendants for Airbus A320 and Fokker F100 aircraft (Virgin Australia Regional Airlines)—CASA 129/14 [F2014L00742].

Civil Aviation Safety Regulations 1998—

Exemption — hang-gliding and paragliding operations at Hooley Dooley launch site within active restricted airspace at Williamtown, NSW—CASA EX43/14 [F2014L00750].

Part 42 Manual of Standards Amendment Instrument 2014 (No. 1) [F2014L00748].


**Higher Education Support Act 2003**—Revocation of Approval as a VET Provider (State of Queensland as represented by Southbank Institute of Technology) [F2014L00751].

**Migration Act 1958**—Migration Regulations 1994—

Classes of Persons—

IMMI 14/045 [F2014L00756].

IMMI 14/046 [F2014L00757].

Specification of Occupations, a Person or Body, a Country or Countries—

IMMI 14/048 [F2014L00749].

IMMI 14/049 [F2014L00753].

Specified Place—IMMI 14/056 [F2014L00754].

Student Visa Assessment Levels—IMMI 14/014 [F2014L00752].


**Student Assistance Act 1973**—Student Assistance (Education Institutions and Courses) Amendment Determination 2014 (No. 1) [F2014L00747].
Superannuation Benefits (Supervisory Mechanisms) Act 1990—Prescribed Requirements Amendment Determination 2014 (No. 1) [F2014L00730].
