INTERNET
The *Journals of the Senate* are available at

Proof and Official Hansards for the House of Representatives,
the Senate and committee hearings are available at

For searching purposes use
http://parlinfo.aph.gov.au

SITTING DAYS—2015

<table>
<thead>
<tr>
<th>Month</th>
<th>Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>February</td>
<td>9, 10, 11, 12</td>
</tr>
<tr>
<td>March</td>
<td>2, 3, 4, 5, 16, 17, 18, 19, 23, 24, 25, 26</td>
</tr>
<tr>
<td>May</td>
<td>12, 13, 14</td>
</tr>
<tr>
<td>June</td>
<td>15, 16, 17, 18, 22, 23, 24, 25</td>
</tr>
<tr>
<td>August</td>
<td>10, 11, 12, 13, 17, 18, 19, 20</td>
</tr>
<tr>
<td>September</td>
<td>7, 8, 9, 10, 14, 15, 16, 17</td>
</tr>
<tr>
<td>October</td>
<td>12, 13, 14, 15</td>
</tr>
<tr>
<td>November</td>
<td>9, 10, 11, 12, 23, 24, 25, 26, 30</td>
</tr>
<tr>
<td>December</td>
<td>1, 2, 3</td>
</tr>
</tbody>
</table>

RADIO BROADCASTS
Broadcasts of proceedings of the Parliament can be heard on ABC NewsRadio in the capital cities on:

<table>
<thead>
<tr>
<th>Location</th>
<th>Frequency</th>
</tr>
</thead>
<tbody>
<tr>
<td>ADELAIDE</td>
<td>972AM</td>
</tr>
<tr>
<td>BRISBANE</td>
<td>936AM</td>
</tr>
<tr>
<td>CANBERRA</td>
<td>103.9FM</td>
</tr>
<tr>
<td>DARWIN</td>
<td>102.5FM</td>
</tr>
<tr>
<td>HOBART</td>
<td>747AM</td>
</tr>
<tr>
<td>MELBOURNE</td>
<td>1026AM</td>
</tr>
<tr>
<td>PERTH</td>
<td>585AM</td>
</tr>
<tr>
<td>SYDNEY</td>
<td>630AM</td>
</tr>
</tbody>
</table>

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

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

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

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

Printed by authority of the Senate
## Members of the Senate

<table>
<thead>
<tr>
<th>Senator</th>
<th>State or Territory</th>
<th>Term expires</th>
<th>Party</th>
</tr>
</thead>
<tbody>
<tr>
<td>Abetz, Hon. Eric</td>
<td>TAS</td>
<td>30.6.2017</td>
<td>LP</td>
</tr>
<tr>
<td>Back, Christopher John</td>
<td>WA</td>
<td>30.6.2017</td>
<td>LP</td>
</tr>
<tr>
<td>Bernardi, Cory</td>
<td>SA</td>
<td>30.6.2020</td>
<td>LP</td>
</tr>
<tr>
<td>Bilyk, Catryna Louise</td>
<td>TAS</td>
<td>30.6.2020</td>
<td>ALP</td>
</tr>
<tr>
<td>Birmingham, Hon. Simon John</td>
<td>SA</td>
<td>30.6.2020</td>
<td>LP</td>
</tr>
<tr>
<td>Brandis, Hon. George Henry, QC</td>
<td>QLD</td>
<td>30.6.2017</td>
<td>LP</td>
</tr>
<tr>
<td>Brown, Carol Louise</td>
<td>TAS</td>
<td>30.6.2020</td>
<td>ALP</td>
</tr>
<tr>
<td>Bullock, Joseph Warrington</td>
<td>WA</td>
<td>30.6.2020</td>
<td>ALP</td>
</tr>
<tr>
<td>Bushby, David Christopher</td>
<td>TAS</td>
<td>30.6.2020</td>
<td>LP</td>
</tr>
<tr>
<td>Cameron, Hon. Douglas Niven</td>
<td>NSW</td>
<td>30.6.2020</td>
<td>ALP</td>
</tr>
<tr>
<td>Canavan, Matthew James</td>
<td>QLD</td>
<td>30.6.2020</td>
<td>LNP</td>
</tr>
<tr>
<td>Carr, Hon. Kim John</td>
<td>VIC</td>
<td>30.6.2017</td>
<td>ALP</td>
</tr>
<tr>
<td>Cash, Hon. Michaelia Clare</td>
<td>WA</td>
<td>30.6.2020</td>
<td>LP</td>
</tr>
<tr>
<td>Colbeck, Hon. Richard Mansell</td>
<td>TAS</td>
<td>30.6.2020</td>
<td>LP</td>
</tr>
<tr>
<td>Collins, Hon. Jacinta Mary Ann</td>
<td>VIC</td>
<td>30.6.2020</td>
<td>ALP</td>
</tr>
<tr>
<td>Conroy, Hon. Stephen Michael</td>
<td>VIC</td>
<td>30.6.2017</td>
<td>ALP</td>
</tr>
<tr>
<td>Cormann, Hon. Mathias Hubert Paul</td>
<td>WA</td>
<td>30.6.2017</td>
<td>LP</td>
</tr>
<tr>
<td>Dastyari, Sam</td>
<td>NSW</td>
<td>30.6.2017</td>
<td>ALP</td>
</tr>
<tr>
<td>Day, Robert John</td>
<td>SA</td>
<td>30.6.2020</td>
<td>FFP</td>
</tr>
<tr>
<td>Di Natale, Richard</td>
<td>VIC</td>
<td>30.6.2017</td>
<td>AG</td>
</tr>
<tr>
<td>Edwards, Sean</td>
<td>SA</td>
<td>30.6.2017</td>
<td>LP</td>
</tr>
<tr>
<td>Fawcett, David Julian</td>
<td>SA</td>
<td>30.6.2017</td>
<td>LP</td>
</tr>
<tr>
<td>Fierravanti-Wells, Hon. Concetta Anna</td>
<td>NSW</td>
<td>30.6.2017</td>
<td>LP</td>
</tr>
<tr>
<td>Fifield, Hon. Mitchell Peter</td>
<td>VIC</td>
<td>30.6.2020</td>
<td>LP</td>
</tr>
<tr>
<td>Gallacher, Alexander McEachian</td>
<td>SA</td>
<td>30.6.2017</td>
<td>ALP</td>
</tr>
<tr>
<td>Hanson-Young, Sarah Coral</td>
<td>SA</td>
<td>30.6.2020</td>
<td>AG</td>
</tr>
<tr>
<td>Heffernan, Hon. William Daniel</td>
<td>NSW</td>
<td>30.6.2017</td>
<td>LP</td>
</tr>
<tr>
<td>Johnston, Hon. David Albert Lloyd</td>
<td>WA</td>
<td>30.6.2020</td>
<td>LP</td>
</tr>
<tr>
<td>Ketter, Christopher Ronald</td>
<td>QLD</td>
<td>30.6.2020</td>
<td>ALP</td>
</tr>
<tr>
<td>Lambie, Jacqui</td>
<td>TAS</td>
<td>30.6.2020</td>
<td>IND</td>
</tr>
<tr>
<td>Lazarus, Glenn Patrick</td>
<td>QLD</td>
<td>30.6.2020</td>
<td>IND</td>
</tr>
<tr>
<td>Leyonhjelm, David Ean</td>
<td>NSW</td>
<td>30.6.2020</td>
<td>LDP</td>
</tr>
<tr>
<td>Lines, Susan</td>
<td>WA</td>
<td>30.6.2017</td>
<td>ALP</td>
</tr>
<tr>
<td>Ludlam, Scott</td>
<td>WA</td>
<td>30.6.2020</td>
<td>AG</td>
</tr>
<tr>
<td>Lundy, Kate Alexandra</td>
<td>ACT</td>
<td></td>
<td>ALP</td>
</tr>
<tr>
<td>Macdonald, Hon. Ian Douglas</td>
<td>QLD</td>
<td>30.6.2020</td>
<td>LP</td>
</tr>
<tr>
<td>Madigan, John Joseph</td>
<td>VIC</td>
<td>30.6.2017</td>
<td>IND</td>
</tr>
<tr>
<td>Marshall, Gavin Mark</td>
<td>VIC</td>
<td>30.6.2020</td>
<td>ALP</td>
</tr>
<tr>
<td>Mason, Hon. Brett John</td>
<td>QLD</td>
<td>30.6.2017</td>
<td>LP</td>
</tr>
<tr>
<td>McEwen, Anne</td>
<td>SA</td>
<td>30.6.2017</td>
<td>ALP</td>
</tr>
<tr>
<td>McGrath, James</td>
<td>QLD</td>
<td>30.6.2020</td>
<td>LNP</td>
</tr>
<tr>
<td>McKenzie, Bridget</td>
<td>VIC</td>
<td>30.6.2017</td>
<td>NATS</td>
</tr>
<tr>
<td>McLucas, Hon. Jan Elizabeth</td>
<td>QLD</td>
<td>30.6.2017</td>
<td>ALP</td>
</tr>
<tr>
<td>Milne, Christine Anne</td>
<td>TAS</td>
<td>30.6.2017</td>
<td>AG</td>
</tr>
<tr>
<td>Moore, Claire Mary</td>
<td>QLD</td>
<td>30.6.2020</td>
<td>ALP</td>
</tr>
<tr>
<td>Muir, Ricky Lee</td>
<td>VIC</td>
<td>30.6.2020</td>
<td>AMEP</td>
</tr>
<tr>
<td>Nash, Hon. Fiona Joy</td>
<td>NSW</td>
<td>30.6.2017</td>
<td>NATS</td>
</tr>
<tr>
<td>O'Neill, Deborah Mary (1)</td>
<td>NSW</td>
<td>30.6.2020</td>
<td>ALP</td>
</tr>
<tr>
<td>Senator</td>
<td>State or Territory</td>
<td>Term expires</td>
<td>Party</td>
</tr>
<tr>
<td>-------------------------------</td>
<td>--------------------</td>
<td>--------------</td>
<td>----------</td>
</tr>
<tr>
<td>O'Sullivan, Barry James</td>
<td>QLD</td>
<td>30.6.2020</td>
<td>NATS</td>
</tr>
<tr>
<td>Parry, Stephen Shane</td>
<td>TAS</td>
<td>30.6.2017</td>
<td>LP</td>
</tr>
<tr>
<td>Payne, Hon. Marise Ann</td>
<td>NSW</td>
<td>30.6.2020</td>
<td>LP</td>
</tr>
<tr>
<td>Peris, Nova Maree OAM</td>
<td>NT</td>
<td>30.6.2017</td>
<td>ALP</td>
</tr>
<tr>
<td>Polley, Helen Beatrice</td>
<td>TAS</td>
<td>30.6.2017</td>
<td>ALP</td>
</tr>
<tr>
<td>Reynolds, Linda Karen CSC</td>
<td>WA</td>
<td>30.6.2020</td>
<td>LP</td>
</tr>
<tr>
<td>Rhiannon, Lee</td>
<td>NSW</td>
<td>30.6.2017</td>
<td>AG</td>
</tr>
<tr>
<td>Rice, Janet Elizabeth</td>
<td>VIC</td>
<td>30.6.2020</td>
<td>AG</td>
</tr>
<tr>
<td>Ronaldson, Hon. Michael</td>
<td>VIC</td>
<td>30.6.2017</td>
<td>LP</td>
</tr>
<tr>
<td>Ruston, Anne Sowerby</td>
<td>SA</td>
<td>30.6.2017</td>
<td>LP</td>
</tr>
<tr>
<td>Ryan, Hon. Scott Michael</td>
<td>VIC</td>
<td>30.6.2020</td>
<td>LP</td>
</tr>
<tr>
<td>Scullion, Hon. Nigel Gregory</td>
<td>NT</td>
<td></td>
<td>CLP</td>
</tr>
<tr>
<td>Seselja, Zdenko Matthew</td>
<td>ACT</td>
<td></td>
<td>LP</td>
</tr>
<tr>
<td>Siewert, Rachel Mary</td>
<td>WA</td>
<td>30.6.2017</td>
<td>AG</td>
</tr>
<tr>
<td>Singh, Hon. Lisa Maria</td>
<td>TAS</td>
<td>30.6.2017</td>
<td>ALP</td>
</tr>
<tr>
<td>Sinodinos, Hon. Arthur</td>
<td>NSW</td>
<td>30.6.2020</td>
<td>LP</td>
</tr>
<tr>
<td>Smith, Dean Anthony</td>
<td>WA</td>
<td>30.6.2017</td>
<td>LP</td>
</tr>
<tr>
<td>Sterle, Glenn</td>
<td>WA</td>
<td>30.6.2017</td>
<td>ALP</td>
</tr>
<tr>
<td>Urquhart, Anne Elizabeth</td>
<td>TAS</td>
<td>30.6.2017</td>
<td>ALP</td>
</tr>
<tr>
<td>Wang, Zhenya</td>
<td>WA</td>
<td>30.6.2020</td>
<td>PUP</td>
</tr>
<tr>
<td>Waters, Larissa Joy</td>
<td>QLD</td>
<td>30.6.2017</td>
<td>AG</td>
</tr>
<tr>
<td>Whish-Wilson, Peter Stuart</td>
<td>TAS</td>
<td>30.6.2020</td>
<td></td>
</tr>
<tr>
<td>Williams, John Reginald</td>
<td>NSW</td>
<td>30.6.2020</td>
<td>NATS</td>
</tr>
<tr>
<td>Wong, Hon. Penelope Ying Yen</td>
<td>SA</td>
<td>30.6.2020</td>
<td>ALP</td>
</tr>
<tr>
<td>Wright, Penelope Lesley</td>
<td>SA</td>
<td>30.6.2017</td>
<td>AG</td>
</tr>
<tr>
<td>Xenophon, Nicholas</td>
<td>SA</td>
<td>30.6.2020</td>
<td>IND</td>
</tr>
</tbody>
</table>

**Casual vacancy**

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:

<table>
<thead>
<tr>
<th>Territory</th>
<th>Senator</th>
<th>Party</th>
<th>Senator</th>
<th>Party</th>
</tr>
</thead>
<tbody>
<tr>
<td>Australian Capital Territory</td>
<td>Lundy, K.</td>
<td>ALP</td>
<td>Seselja, Z.M.</td>
<td>LP</td>
</tr>
<tr>
<td>Northern Territory</td>
<td>Scullion, N. G.</td>
<td>CLP</td>
<td>Peris, N.M.</td>
<td>ALP</td>
</tr>
</tbody>
</table>

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

** Casual vacancy to be filled (vice J Faulkner, resigned 6.2.15), pursuant to section 15 of the Constitution.

** PARTY ABBREVIATIONS **


** Heads of Parliamentary Departments **

Clerk of the Senate—R Laing
Clerk of the House of Representatives—D Elder
Secretary, Department of Parliamentary Services—C Mills
Parliamentary Budget Officer—P Bowen
<table>
<thead>
<tr>
<th>Title</th>
<th>Minister</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Prime Minister</strong></td>
<td>The Hon. Tony Abbott MP</td>
</tr>
<tr>
<td><strong>Minister for Indigenous Affairs</strong></td>
<td>Senator the Hon. Nigel Scullion</td>
</tr>
<tr>
<td><strong>Minister Assisting the Prime Minister for the Public Service</strong></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. Charles Porter MP</td>
</tr>
<tr>
<td><strong>Parliamentary Secretary to the Prime Minister</strong></td>
<td>The Hon. Alan Tudge MP</td>
</tr>
<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>
</tr>
<tr>
<td><strong>Minister for Foreign Affairs</strong></td>
<td>The Hon. Julie Bishop MP</td>
</tr>
<tr>
<td><strong>Minister for Trade and Investment</strong></td>
<td>The Hon. Andrew Robb AO MP</td>
</tr>
<tr>
<td><strong>Parliamentary Secretary to the Minister for Foreign Affairs</strong></td>
<td>The Hon. Steven Ciobo MP</td>
</tr>
<tr>
<td><strong>Parliamentary Secretary to the Minister for Trade and Investment</strong></td>
<td>The Hon. Steven Ciobo MP</td>
</tr>
<tr>
<td><strong>Minister for Employment</strong></td>
<td>Senator the Hon. Eric Abetz</td>
</tr>
<tr>
<td><strong>Assistant Minister for Employment</strong></td>
<td>The Hon. Luke Hartsuyker MP</td>
</tr>
<tr>
<td>(Deputy Leader of the House)</td>
<td>The Hon. Luke Hartsuyker MP</td>
</tr>
<tr>
<td><strong>Attorney-General</strong></td>
<td>The Hon. Michael Keenan MP</td>
</tr>
<tr>
<td><strong>Minister for the Arts</strong></td>
<td>The Hon. George Brandis QC</td>
</tr>
<tr>
<td>(Vice-President of the Executive Council)</td>
<td>Senator the Hon. George Brandis QC</td>
</tr>
<tr>
<td>(Deputy Leader of the Government in the Senate)</td>
<td>Senator the Hon. George Brandis QC</td>
</tr>
<tr>
<td><strong>Minister for Justice</strong></td>
<td>The Hon. Michael Keenan MP</td>
</tr>
<tr>
<td><strong>Treasurer</strong></td>
<td>The Hon. Joe Hockey MP</td>
</tr>
<tr>
<td><strong>Minister for Small Business</strong></td>
<td>The Hon. Bruce Billson MP</td>
</tr>
<tr>
<td><strong>Assistant Treasurer</strong></td>
<td>The Hon. Joshua Frydenberg MP</td>
</tr>
<tr>
<td><strong>Parliamentary Secretary to the Treasurer</strong></td>
<td>The Hon. Kelly O'Dwyer</td>
</tr>
<tr>
<td><strong>Minister for Agriculture</strong></td>
<td>The Hon. Barnaby Joyce MP</td>
</tr>
<tr>
<td><strong>Parliamentary Secretary to the Minister for Agriculture</strong></td>
<td>Senator the Hon. Richard Colbeck</td>
</tr>
<tr>
<td><strong>Minister for Education and Training</strong></td>
<td>The Hon. Christopher Pyne MP</td>
</tr>
<tr>
<td>(Leader of the House)</td>
<td>Senator the Hon. Simon Birmingham</td>
</tr>
<tr>
<td><strong>Assistant Minister for Education and Training</strong></td>
<td>Senator the Hon. Simon Birmingham</td>
</tr>
<tr>
<td>(Deputy Leader of the House)</td>
<td>Senator the Hon. Scott Ryan</td>
</tr>
<tr>
<td><strong>Parliamentary Secretary to the Minister for Education and Training</strong></td>
<td>Senator the Hon. Scott Ryan</td>
</tr>
<tr>
<td><strong>Minister for Social Services</strong></td>
<td>The Hon. Scott Morrison MP</td>
</tr>
<tr>
<td><strong>Assistant Minister for Social Services</strong></td>
<td>The Hon. Mitch Fifield</td>
</tr>
<tr>
<td>(Manager of Government Business in the Senate)</td>
<td>Senator the Hon. Marise Payne</td>
</tr>
<tr>
<td><strong>Minister for Human Services</strong></td>
<td>Senator the Hon. Concetta Fierravanti-Wells</td>
</tr>
<tr>
<td><strong>Parliamentary Secretary to the Minister for Social Services</strong></td>
<td>Senator the Hon. Concetta Fierravanti-Wells</td>
</tr>
<tr>
<td><strong>Minister for Industry and Science</strong></td>
<td>The Hon. Ian Macfarlane MP</td>
</tr>
<tr>
<td><strong>Parliamentary Secretary to the Minister for Industry and Science</strong></td>
<td>The Hon. Karen Andrews MP</td>
</tr>
<tr>
<td><strong>Minister for Defence</strong></td>
<td>The Hon. Kevin Andrews MP</td>
</tr>
<tr>
<td><strong>Minister for Veterans' Affairs</strong></td>
<td>Senator the Hon. Michael Ronaldson</td>
</tr>
<tr>
<td><strong>Minister Assisting the Prime Minister for the Centenary of ANZAC</strong></td>
<td>Senator the Hon. Michael Ronaldson</td>
</tr>
<tr>
<td><strong>Assistant Minister for Defence</strong></td>
<td>The Hon. Stuart Robert MP</td>
</tr>
<tr>
<td>Title</td>
<td>Minister</td>
</tr>
<tr>
<td>----------------------------------------------------------------------</td>
<td>----------------------------------------------</td>
</tr>
<tr>
<td>Parliamentary Secretary to the Minister for Defence</td>
<td>The Hon. Darren Chester MP</td>
</tr>
<tr>
<td>Minister for Communications</td>
<td>The Hon. Malcolm Turnbull MP</td>
</tr>
<tr>
<td>Parliamentary Secretary to the Minister for Communications</td>
<td>The Hon. Paul Fletcher MP</td>
</tr>
<tr>
<td>Minister for Immigration and Border Protection</td>
<td>The Hon. Peter Dutton MP</td>
</tr>
<tr>
<td>Assistant Minister for Immigration and Border Protection</td>
<td>Senator the Hon. Michaelia Cash</td>
</tr>
<tr>
<td>Minister for the Environment</td>
<td>The Hon. Greg Hunt MP</td>
</tr>
<tr>
<td>Parliamentary Secretary to the Minister for the Environment</td>
<td>The Hon. Robert Baldwin MP</td>
</tr>
<tr>
<td>Minister for Finance</td>
<td>Senator the Hon. Mathias Cormann</td>
</tr>
<tr>
<td>Special Minister of State</td>
<td>Senator the Hon. Michael Ronaldson</td>
</tr>
<tr>
<td>Parliamentary Secretary to the Minister for Finance</td>
<td>The Hon. Michael McCormack MP</td>
</tr>
<tr>
<td>Minister for Health</td>
<td>The Hon. Sussan Ley MP</td>
</tr>
<tr>
<td>Minister for Sport</td>
<td>The Hon. Sussan Ley MP</td>
</tr>
<tr>
<td>Assistant Minister for Health</td>
<td>Senator the Hon. Fiona Nash</td>
</tr>
</tbody>
</table>

Each box represents a portfolio. **Cabinet Ministers are shown in bold type.** As a general rule, there is one department in each portfolio. However, there is a Department of 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.
<table>
<thead>
<tr>
<th>TITLE</th>
<th>SHADOW MINISTER</th>
</tr>
</thead>
<tbody>
<tr>
<td>Leader of the Opposition</td>
<td>Hon. Bill Shorten MP</td>
</tr>
<tr>
<td>Shadow Minister Assisting the Leader for Science</td>
<td>Senator the Hon. Kim Carr</td>
</tr>
<tr>
<td>Shadow Minister Assisting the Leader for Small Business</td>
<td>Hon. Bernie Ripoll MP</td>
</tr>
<tr>
<td>Shadow Parliamentary Secretary for Small Business</td>
<td>Julie Owens MP</td>
</tr>
<tr>
<td>Shadow Cabinet Secretary</td>
<td>Senator the Hon. Jacinta Collins</td>
</tr>
<tr>
<td>Shadow Parliamentary Secretary to the Leader of the Opposition</td>
<td>Hon. Michael Danby MP</td>
</tr>
<tr>
<td>Shadow Parliamentary Secretary to the Leader of the Opposition</td>
<td>Dr Jim Chalmers MP</td>
</tr>
<tr>
<td>Deputy Leader of the Opposition</td>
<td>Hon. Tanya Plibersek MP</td>
</tr>
<tr>
<td>Shadow Minister for Foreign Affairs and International Development</td>
<td></td>
</tr>
<tr>
<td>Shadow Minister for Women</td>
<td>Senator Claire Moore</td>
</tr>
<tr>
<td>Manager of Opposition Business (Senate)</td>
<td></td>
</tr>
<tr>
<td>Shadow Minister for the Centenary of ANZAC</td>
<td>Hon. David Feeney MP</td>
</tr>
<tr>
<td>Shadow Parliamentary Secretary for Foreign Affairs</td>
<td>Hon. Matt Thistlethwaite MP</td>
</tr>
<tr>
<td>Leader of the Opposition in the Senate</td>
<td>Senator the Hon. Penny Wong</td>
</tr>
<tr>
<td>Shadow Minister for Trade and Investment</td>
<td>Dr Jim Chalmers MP</td>
</tr>
<tr>
<td>Deputy Leader of the Opposition in the Senate</td>
<td></td>
</tr>
<tr>
<td>Shadow Minister for Defence</td>
<td>Hon. David Feeney MP</td>
</tr>
<tr>
<td>Shadow Minister for Veterans' Affairs</td>
<td>Hon. David Feeney MP</td>
</tr>
<tr>
<td>Shadow Parliamentary Secretary for Defence</td>
<td>Gai Brodman MP</td>
</tr>
<tr>
<td>Shadow Minister for Infrastructure and Transport</td>
<td>Hon. Anthony Albanese MP</td>
</tr>
<tr>
<td>Shadow Minister for Cities</td>
<td></td>
</tr>
<tr>
<td>Shadow Minister for Tourism</td>
<td></td>
</tr>
<tr>
<td>Shadow Minister for Regional Development and Local Government</td>
<td>Hon. Julie Collins MP</td>
</tr>
<tr>
<td>Shadow Parliamentary Secretary for Regional Development and Infrastructure</td>
<td>Hon. Alannah MacTiernan MP</td>
</tr>
<tr>
<td>Shadow Parliamentary Secretary for Western Australia</td>
<td></td>
</tr>
<tr>
<td>Shadow Parliamentary Secretary for External Territories</td>
<td>Hon. Warren Snowdon MP</td>
</tr>
<tr>
<td>Shadow Treasurer</td>
<td></td>
</tr>
<tr>
<td>Shadow Assistant Treasurer</td>
<td></td>
</tr>
<tr>
<td>Shadow Minister for Competition</td>
<td></td>
</tr>
<tr>
<td>Shadow Minister for Financial Services and Superannuation</td>
<td></td>
</tr>
<tr>
<td>Shadow Parliamentary Secretary to the Shadow Treasurer</td>
<td></td>
</tr>
<tr>
<td>Shadow Minister for Finance</td>
<td></td>
</tr>
<tr>
<td>Manager of Opposition Business (House)</td>
<td></td>
</tr>
<tr>
<td>Shadow Minister for Environment, Climate Change and Water</td>
<td></td>
</tr>
<tr>
<td>Shadow Parliamentary Secretary for the Environment, Climate Change and Water</td>
<td></td>
</tr>
<tr>
<td>Shadow Minister for Higher Education, Research, Innovation</td>
<td></td>
</tr>
<tr>
<td>Shadow Minister for Higher Education, Research, Innovation and Industry</td>
<td></td>
</tr>
<tr>
<td>Shadow Minister for Vocational Education</td>
<td>Hon. Sharon Bird MP</td>
</tr>
<tr>
<td>Shadow Assistant Minister for Higher Education</td>
<td>Hon. Amanda Rishworth MP</td>
</tr>
<tr>
<td>Shadow Parliamentary Secretary for Manufacturing</td>
<td>Tony Zappia MP</td>
</tr>
<tr>
<td>TITLE</td>
<td>SHADOW MINISTER</td>
</tr>
<tr>
<td>----------------------------------------------------------------------</td>
<td>----------------------------------------------</td>
</tr>
<tr>
<td>Shadow Minister for Communications</td>
<td>Hon. Jason Clare MP</td>
</tr>
<tr>
<td>Shadow Assistant Minister for Communications</td>
<td>Michelle Rowland MP</td>
</tr>
<tr>
<td>Shadow Attorney General</td>
<td></td>
</tr>
<tr>
<td>Shadow Minister for the Arts</td>
<td></td>
</tr>
<tr>
<td>Deputy Manager of Opposition Business (House)</td>
<td></td>
</tr>
<tr>
<td>Shadow Minister for Justice</td>
<td>Hon. David Feeney MP</td>
</tr>
<tr>
<td>Shadow Parliamentary Secretary to the Shadow Attorney General</td>
<td>Graham Perrett MP</td>
</tr>
<tr>
<td>Shadow Parliamentary Secretary for the Arts</td>
<td>Hon. Michael Danby MP</td>
</tr>
<tr>
<td>Shadow Minister for Education</td>
<td>Hon. Mark Dreyfus QC MP</td>
</tr>
<tr>
<td>Shadow Minister for Early Childhood</td>
<td></td>
</tr>
<tr>
<td>Shadow Assistant Minister for Education</td>
<td>Hon. Amanda Rishworth MP</td>
</tr>
<tr>
<td>Shadow Parliamentary Secretary for Education</td>
<td>Julie Owens MP</td>
</tr>
<tr>
<td>Shadow Minister for Agriculture</td>
<td>Hon. Joel Fitzgibbon MP</td>
</tr>
<tr>
<td>Shadow Minister for Rural Affairs</td>
<td></td>
</tr>
<tr>
<td>Shadow Minister for Northern Australia</td>
<td>Hon. Gary Gray AO MP</td>
</tr>
<tr>
<td>Shadow Special Minister of State</td>
<td></td>
</tr>
<tr>
<td>Shadow Parliamentary Secretary for Northern Australia</td>
<td>Hon. Warren Snowdon MP</td>
</tr>
<tr>
<td>Shadow Minister for Health</td>
<td>Hon. Catherine King MP</td>
</tr>
<tr>
<td>Shadow Assistant Minister for Health</td>
<td>Stephen Jones MP</td>
</tr>
<tr>
<td>Shadow Minister for Mental Health</td>
<td>Senator Hon. Jan McLucas</td>
</tr>
<tr>
<td>Shadow Minister for Sport</td>
<td>Hon. Bernie Ripoll MP</td>
</tr>
<tr>
<td>Shadow Parliamentary Secretary for Health</td>
<td>Nick Champion MP</td>
</tr>
<tr>
<td>Shadow Minister for Families and Payments</td>
<td>Hon. Jenny Macklin MP</td>
</tr>
<tr>
<td>Shadow Minister for Disability Reform</td>
<td></td>
</tr>
<tr>
<td>Shadow Minister for Human Services</td>
<td>Senator the Hon. Doug Cameron</td>
</tr>
<tr>
<td>Shadow Minister for Housing and Homelessness</td>
<td>Senator the Hon. Jan McLucas</td>
</tr>
<tr>
<td>Shadow Minister for Carers</td>
<td>Senator Claire Moore</td>
</tr>
<tr>
<td>Shadow Minister for Communities</td>
<td></td>
</tr>
<tr>
<td>Shadow Parliamentary Secretary for Families and Payments</td>
<td>Senator Carol Brown</td>
</tr>
<tr>
<td>Shadow Minister for Immigration and Border Protection</td>
<td>Hon. Richard Marles MP</td>
</tr>
<tr>
<td>Shadow Minister for Citizenship and Multiculturalism</td>
<td>Michelle Rowland MP</td>
</tr>
<tr>
<td>Shadow Parliamentary Secretary for Immigration</td>
<td>Hon. Matt Thistlethwaite MP</td>
</tr>
<tr>
<td>Shadow Minister for Indigenous Affairs</td>
<td>Hon. Shayne Neumann MP</td>
</tr>
<tr>
<td>Shadow Minister for Ageing</td>
<td></td>
</tr>
<tr>
<td>Shadow Parliamentary Secretary for Indigenous Affairs</td>
<td>Hon. Warren Snowdon MP</td>
</tr>
<tr>
<td>Shadow Parliamentary Secretary for Aged Care</td>
<td>Senator Helen Polley</td>
</tr>
<tr>
<td>Shadow Minister for Employment and Workplace Relations</td>
<td>Hon. Brendan O'Connor MP</td>
</tr>
<tr>
<td>Shadow Minister for Employment Services</td>
<td>Hon. Julie Collins MP</td>
</tr>
</tbody>
</table>
CONTENTS

MONDAY, 16 MARCH 2015

Chamber
STATEMENTS—
   Palmer United Party ................................................................. 1421
DOCUMENTS—
   Tabling .................................................................................. 1421
COMMITTEES—
   Abbott Government's Budget Cuts Select Committee—
     Economics Legislation Committee—
       Meeting ........................................................................... 1421
BILLS—
   Amendment (Protection and Other Measures) Bill 2014—
     Second Reading ................................................................... 1421
MINISTERIAL ARRANGEMENTS ......................................................... 1474
QUESTIONS WITHOUT NOTICE—
   Higher Education ....................................................................... 1474
   Death Penalty ........................................................................... 1476
   Superannuation ....................................................................... 1477
   Higher Education ....................................................................... 1479
   Renewable Energy ...................................................................... 1481
   Indigenous Health ...................................................................... 1483
   Telecommunications Data Retention ....................................... 1484
   Industry ................................................................................... 1486
   Indigenous Communities .......................................................... 1487
   Vocational Education and Training ......................................... 1489
   Indigenous Communities .......................................................... 1490
   Competition Policy ................................................................. 1492
QUESTIONS WITHOUT NOTICE: ADDITIONAL ANSWERS—
   Higher Education ....................................................................... 1493
QUESTIONS WITHOUT NOTICE: TAKE NOTE OF ANSWERS—
   Higher Education ....................................................................... 1493
   Renewable Energy ...................................................................... 1499
NOTICES—
   Presentation ............................................................................ 1500
   Presentation ............................................................................ 1503
BUSINESS—
   Rearrangement ......................................................................... 1507
   Leave of Absence ..................................................................... 1507
NOTICES—
   Postponement ......................................................................... 1507
COMMITTEES—
   Environment and Communications Legislation Committee—
     Reporting Date ....................................................................... 1507
   Environment and Communications References Committee—
     Reference .............................................................................. 1507
BUSINESS—
   Senate Temporary Orders .......................................................... 1508
CONTENTS—continued

MOTIONS—
  Country of Origin Labelling................................................................. 1508
  Tibet ....................................................................................................... 1509
  Suspension of Standing Orders .............................................................. 1509
MATTERS OF PUBLIC IMPORTANCE—
  Higher Education .................................................................................. 1513
DOCUMENTS—
  Auditor-General’s Report ........................................................................ 1529
BILLS—
  Acts and Instruments (Framework Reform) Bill 2014—
  Environment Legislation Amendment Bill 2013—
  Crimes Legislation Amendment (Psychoactive Substances and Other Measures) Bill
    2014—
  Tax Laws Amendment (Research and Development) Bill 2013—
  Assent ................................................................................................. 1531
  Australian Securities and Investments Commission Amendment (Corporations and Markets
    Advisory Committee Abolition) Bill 2014—
  Tribunals Amalgamation Bill 2014—
  Report of Legislation Committee ......................................................... 1532
BUSINESS—
  Rearrangement .................................................................................... 1532
  Rearrangement .................................................................................... 1532
BILLS—
  National Vocational Education and Training Regulator Amendment Bill 2015—
    Second Reading ................................................................................ 1532
    Third Reading ................................................................................... 1555
  Fair Work Amendment Bill 2014—
    Second Reading ................................................................................ 1555
ADJOURNMENT—
  Workplace Relations ............................................................................ 1582
  Tasmania: Gunns Ltd ........................................................................... 1585
  Sexism Report ...................................................................................... 1587
  New South Wales State Election ............................................................ 1589
DOCUMENTS—
  Tabling ................................................................................................. 1592
  Tabling ................................................................................................. 1594
  Indexed Lists of Files ........................................................................... 1595
Monday, 16 March 2015

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

STATMENTS

Palmer United Party

Senator LAZARUS (Queensland) (10:01): by leave. I would like to inform the Senate that I have resigned from the Palmer United party and from my position as the Leader of the Palmer United Party in the Senate.

I would like to thank the community, colleagues, family, friends and fellow senators for their support over the last few days. My decision to resign from the party has been a difficult one. I have a different view as to how a team or a party works and, as such, over the last few months have come to the conclusion that it would be in the best interests for me to resign from the party and to pursue my career as an independent senator.

I would like to thank Clive Palmer for the opportunity to be involved with the party, and I wish him all the best. I look forward to representing the people of Queensland with commitment, integrity and to the best of my ability.

DOCUMENTS

Tabling

The Clerk: Documents are tabled pursuant to statute and pursuant to the order of the Senate relating to indexed lists of departmental and agency files. Details will be recorded in the Journals of the Senate and on the Dynamic Red.

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

COMMITTEES

Abbott Government's Budget Cuts Select Committee

Economics Legislation Committee

Meeting

The Clerk: A notification has been lodged by the Select Committee into the Abbott Government's Budget Cuts to hold a public meeting during the sitting of the Senate on Wednesday, 18 March 2015, from 12.30 pm and by the Economics Legislation Committee to hold a public meeting during the sitting of the Senate on Wednesday, 18 March 2015, from 9.30 am.

The PRESIDENT (10:02): Does any senator require the motion to be put? There being none, we will proceed to business.

BILLS

Migration Amendment (Protection and Other Measures) Bill 2014

Second Reading

Debate resumed on the motion:
That this bill be now read a second time.
Senator KIM CARR (Victoria) (10:02): Australia has a long and proud tradition of offering protection to people fleeing persecution in their home countries. To ensure that this tradition can continue, there must be a robust and efficient processing of applications. But devising such a process must not disadvantage those with genuine claims for protection.

This Migration Amendment (Protection and Other Measures) Bill 2014 seeks to alter various aspects of the protection framework as set out in the Migration Act of 1958 and, while Labor supports some of these changes, we are concerned about others. For example, the bill places applicants for protection at a disadvantage in tribunal hearings by weakening the requirement of the tribunal to give its decisions in writing. And while Labor supports the broad aim of making the assessment of protection claims more efficient, we do not support provisions in this bill that restrict procedural justice for applicants. I will come back to this in a moment.

First, I wish to detail Labor's most substantial concern, and that is that schedule 2 lowers the threshold for complementary protection. The measure in this schedule potentially allows people to be returned to places where they have a risk of suffering death or serious harm. If those changes were not part of this bill we would find it easier to support the legislation in an amended form. Whilst schedule 2 remains, however, Labor cannot support this bill. Labor has grave concerns about the bill's significant changes to the way Australia determines whether it has an obligation to protect noncitizens.

When we were in government we introduced complementary protection visas for people who are not covered by the United Nations conventions relating to the status of refugees but who were, nonetheless, at risk of a serious violation of their human rights if returned to their home country. The changes proposed in this bill undermine the complementary protection framework that Labor put in place. The UN convention provides that protection should be offered to people fleeing persecution on the basis of race, religion, nationality, social group or political opinion. Every year, a small but significant number of people flee in circumstances which are not covered by these categories. Many of those who are not covered by the convention but who do require protection are women, including women who may be at risk of genital mutilation or so-called 'honour killings' in their homeland. Lowering the threshold for complementary protection is likely to particularly affect such women. Because the bill shifts the threshold from applicants having to prove that there is a real chance of suffering significant harm on being returned to their homelands, to requiring them to prove it is more likely than not that they would suffer harm. At present, 'a real chance' is understood to mean a risk of harm that is not remote or unsubstantial but which may be as low as 10 per cent.

In the evidence given to the Senate Legal and Constitutional Affairs Committee, the Department of Immigration and Border Protection conceded that the meaning of the application of the phrase 'more likely than not' may have been inconsistent in the explanatory memorandum to the bill, the then minister's second reading speech and the department's submission to the Senate inquiry. This confusion concerns whether the new threshold would be interpreted by decision makers on the balance of probabilities or on a quantifiable, greater-than-50 per cent criterion. These inconsistencies have increased Labor's concern that the changes to complementary protection in this bill would result in people being returned to their home countries to face persecution. Complementary protection applications are only a small
proportion of those who apply for protection, but that is not a reason for weakening the protections that are available to them. Nevertheless, this legislation fits a pattern when it comes to the Abbott government's previous handling of the issue of complementary protection.

Last year, the government sought to remove Labor's changes to complementary protection by introducing the Migration Amendment (Retaining Control Over Australia's Protection Obligations) bill 2013. That bill was not passed by the parliament and this new bill is a further attempt by the government to make it more difficult for those seeking protection to obtain it. Labor puts the government on notice, as we did before: we will not support your attempts to walk away from Australia's international protection obligations and place the lives of the vulnerable at risk.

The bill also changes the determination of refugee status, which Labor supports in part. One such change affects family members of protection visa holders. At present, a member of the family of a protection visa holder is automatically considered to be owed protection. The bill provides that if a person seeking protection does not apply at the same time as the primary applicant, or at least before the primary applicant's claim is granted, that person will have to lodge an application in his or her own right. For example, a person who marries a protection visa holder after the visa is granted will not be considered to be eligible for protection by virtue of the fact that their partner has a visa. It is important to note that this change only applies to applicants already in Australia. The bill also states explicitly that the onus of proof for a claim of refugee status lies with the applicant. This is the way the process has always operated in practice and it is in an applicant's best interest to provide as much information as possible. As the legislation currently stands, the lack of documentary evidence of an applicant's identity is not automatically grounds for refusal, but a decision maker is entitled to draw an adverse inference.

This bill imposes a duty on the minister to refuse to grant a protection visa if the applicant refuses or fails to comply with a request for documentary evidence and does not have a reasonable explanation for this refusal or failure. Similarly, the minister is obliged to refuse a visa if the applicant provides a bogus document as evidence of identity or nationality or if the minister is satisfied that the applicant has destroyed or disposed of the documentary evidence, unless the applicant has a reasonable explanation for these actions. The obligation to refuse does not apply if the applicant has a reasonable explanation, such as statelessness, and/or provides other documentary evidence of identity or has taken reasonable steps to obtain such evidence.

Labor regards this requirement as an onerous burden to place on applicants. They are therefore asked to double up. Even if they have a reasonable explanation, they must also provide documentary evidence or show that they have taken reasonable steps to obtain it. In these circumstances, a reasonable explanation should be sufficient, and Labor will seek to amend the bill accordingly.

Finally, the bill encourages all information to be provided at the earliest possible opportunity. When an applicant seeks to raise new evidence, the bill requires the Refugee Review Tribunal to infer that the evidence lacks credibility when the applicant cannot provide a reasonable explanation for not presenting the evidence to the primary decision maker. Labor
will seek to amend the bill to require the tribunal to give an applicant a written warning before making an unfavourable inference when a new claim has been raised.

The bill also changes the processes and administration of the Migration Review Tribunal and the Refugee Review Tribunal. Labor is especially concerned by one of these, which sets out circumstances in which the tribunal's ruling may be given orally, without a requirement for a written copy of the ruling unless it has been requested by the applicant. We cannot support this weakening of the existing requirement, which potentially denies procedural fairness to applicants. Labor will seek to amend the bill by removing this item.

Other changes enable the principal member of each tribunal to issue practice directions to applicants and their representatives and to issue guidance directions to other tribunal members. This is consistent with the practice of other Commonwealth merit review tribunals such as the Administrative Appeals Tribunal. The tribunal will also be able to dismiss an application if the applicant fails to appear after being requested to do so. The tribunals will be able to reinstate the case if requested by the applicant within a specified period and if it is appropriate to do so.

While Labor generally support these measures, we are concerned that the specified period is too short. We will therefore move an amendment to extend the time from seven days to 14 days, and this is consistent with the recommendations of the Senate Legal and Constitutional Affairs Legislation Committee inquiry into the bill.

The bill seeks to streamline statutory bars to making a visa application. These changes ensure that an unauthorised maritime arrival in Australia who is an unlawful noncitizen, a bridging visa holder or a holder of a temporary visa will not be able to apply for a visa unless the minister determines that it is in the public interest. The explanatory memorandum states:

Most unauthorised maritime arrivals and some transitory persons who arrived in Australia before 19 July 2013 have been granted a temporary safe haven visa and a Bridging … visa …

At present anyone with these visas would be subject to three provisions in the act that prevent them from making a valid visa application. The bill's changes ensure that unauthorised arrivals are caught by only one provision relating to unauthorised maritime arrivals generally. Importantly, the changes do not expand or alter the minister's existing powers to lift the application bar in relation to an unauthorised maritime arrival or a transitory person. The changes only affect applications made by unauthorised maritime arrivals and transitory persons after the amendments commence. They do not affect applications already lodged with the department.

Labor support these changes and note the High Court's judgement in Plaintiff S4/2014 v. Minister for Immigration and Border Protection & Anor. We also acknowledge the department's statement in response to a question on notice from the Senate Legal and Constitutional Affairs Legislation Committee that it is still considering the implications of this judgement for the proposed change.

So, although Labor accept that in some respects the bill improves existing protection processes, we cannot support it in its present form because of the changes to the complementary protection and procedural justice rights of applicants, and I urge the government and the Senate to accept Labor's amendments.
Senator HANSON-YOUNG (South Australia) (10:15): The Migration Amendment (Protection and Other Measures) Bill 2014, as we know, has been on the books for some time. As a result, every time it is looked at, every time somebody outside of this place views the detail of this bill, it becomes clearer and clearer just how reckless this bill is and how dangerous this bill is. It will undoubtedly put people’s lives at risk.

Whilst the bill at face value seems very technical in nature, it is everything but. It is a fundamental change to how we assess and how we value Australia’s role in protecting people from persecution and danger. This bill carries with it the very real likelihood of Australia deporting people, particularly young women and girls, back to danger. The bill seriously compromises the integrity of Australia’s rigorous protection determination system, it erodes procedural safeguards, it hands unprecedented power to the minister of the day and it puts Australia at risk of breaching its non-refoulement obligations. This bill disregards the realities of those fleeing persecution and dismisses the very real and complex nature of the needs of people seeking asylum and the support that they require from any fair-minded and decent country.

This bill is nothing more than an attempt by this government to limit Australia’s responsibilities to those seeking protection. This is about allowing this government to give fewer people refugee protection, not because they do not deserve it but because it is all about the numbers. Fewer people is why the government is attempting to change the rules. We know that those who arrive on our shores seeking protection are extremely vulnerable and have often experienced persecution, trauma and torture. Rather than enhancing the integrity and fairness of Australia’s onshore protection status determination process, this bill does the complete opposite.

I foreshadow here a number of amendments that the Greens will move if this bill goes to the committee stage, one of which will reinstate legal assistance for asylum seekers. The ludicrous situation we have here is that, through this piece of legislation, the government is trying to change the rules for how people apply and the thresholds on which they will be assessed, yet no-one will be given legal assistance to help them work through the current or indeed the new process. That of course leaves open the opportunity for mistakes. When we are talking about decisions being made that impact directly on the life or death of somebody who has fled a horrific regime, it is simply madness, it is reckless, not to ensure that those decisions are being made with all of the appropriate information given up-front so that people are given the utmost opportunity to present their case in the best possible way. The government’s scrapping of legal assistance to asylum seekers some months ago is going to have a disastrous effect and, in fact, a deadly impact on people if this bill passes without reinstating proper legal assistance to them.

The amendments proposed by this bill state that the burden of proof will rest solely on the applicant to prove that they are a person to whom Australia has protection obligations and that all evidence must be provided in the first instance. This is a retrospective measure. We currently have almost 30,000 people living in the Australian community who this will retrospectively impact upon—people who have been traumatised and re-traumatised through the detention process and are now living with very little care in the Australian community, with no legal assistance. The government is insisting through this legislation that changing the rules will not just happen for new cases but be retrospective. That is appalling, and the Greens
will move to ensure that any changes are not retrospective in their nature. It is always a bad position to make retrospective laws, and we will be doing our best to fix those.

At face value, it does seem to be in some ways reasonable to have people prove their case for protection. They need to be given the best mechanisms to be able to do that. This bill ignores the realities of people seeking protection and assumes that people are fully aware of the complex nature of Australia's migration system. The UNHCR acknowledge this in their guidelines for decision making. They say:

… while the burden of proof in principle rests on the applicant, the duty to ascertain and evaluate all the relevant facts is shared between the applicant and the examiner. Indeed, in some cases, it may be for the examiner to use all the means at his disposal to produce the necessary evidence in support of the application.

… it is hardly possible for a refugee to "prove" every part of his case …

We know that the reality of people seeking protection is that they have fled some pretty awful and traumatic experiences. They often have to leave in secret in order not to be detected by the regime or the militia group that they are fleeing. Just in recent days, there was the news of a young man who was working alongside coalition forces in Afghanistan being killed because he was not given protection soon enough. Of course, the Taliban found him. They knew that he had helped the Australian and US forces in Afghanistan, and he is now dead. That is the reality of the people that we are talking about.

Rather than following these guidelines, the government thinks that a person fleeing persecution, who may have fled in the middle of the night, has all the correct information. It is just not like that. It is just inconceivable to assume that somebody who is actually fleeing for their life will always have all of this information to hand, is fully aware of Australia's migration law and has access to a lawyer before they flee in the dead of night. It is completely unreasonable and ignores the realities of seeking protection. As stated by experts in this field, it is often difficult for people in those circumstances to understand what is going to be required of them much further down the track when they are facing the application process. People flee as refugees as a decision between life and death, saving themselves or saving their family. As to making sure you have collected everything—that is, even if you had access to all of those documents—it just beggars belief that this government wants to trash what is universally understood as the challenges of people fleeing for their lives and seeking refugee protection.

There is a part of this bill that relates to increasing risk thresholds to 'more likely than not'. This is in relation particularly to those people seeking complementary protection. When the then Minister for Immigration and Border Protection stood in the other place, he announced that refugees would have to prove that they had a greater than 50 per cent chance of being tortured or killed. The flip side of that is that they can have a 49 per cent chance of being returned to serious harm and being deported back to danger.

I want to be very clear here: those who are most at risk of being deported back to danger under this legislation are young women and girls—young women who are fleeing female genital mutilation or death by stoning because of trumped-up charges of adultery. We see our Prime Minister and our foreign minister out on the radio and the television every day talking about standing up for the rights of women across the world and particularly in our region.
This bill fundamentally puts many of those girls and young women at risk. It will lead to the deaths of young women if we do not put in some proper safeguards to ensure they are not deported back to danger.

The amendments in the government's bill show that women fleeing honour killings or female genital mutilation, if there is a 40 per cent or 30 per cent chance that they will face that upon return, will be sent home. We are talking about people whose life or death decisions are being made at the flick of the coin. It is unconscionable that we would do this to somebody who has made their way to Australia and fears for their life: rather than doing what we can to help them, we flick a coin as to whether they get sent back to have a bullet in their head or to be tortured. It is unthinkable that a fair-minded and decent country like Australia would put young women at risk like this.

These changes are in direct contravention of international and human rights law—in particular the International Covenant on Civil and Political Rights; the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; and the fundamental principle of refugee law, which is about non-refoulement, not knowingly sending people back to danger to be tortured, killed or abducted. That is the fundamental principle of international refugee law, and this bill single-handedly undermines that, particularly for those most at risk, such as young women and girls.

Despite the attempts by this government to cover its tracks and amend the bill to clear up some confusion, we know what this government's intentions are. It is determined to give fewer people refugee protection by whatever means possible, and this is just one of the aspects of doing that. There are legitimate issues around trying to make applications more streamlined to ensure that people are able to have their cases dealt with more efficiently. This is not how you do it. This is going to send people directly back to danger. There is no doubt that with the 'more likely than not' test there will be a significant increase in Australia's chances of making the wrong decision on whether somebody is protected from serious harm or not. We will risk breaching our obligations and returning people to persecution and other forms of life-threatening abuse.

In these last few minutes, I just want to address the issues of bogus documentation, because of course this is quite a hot-button issue when we talk about it outside the context of the realities of people seeking protection. This bill will deny genuine refugee protection to those who are thought to have or who actually have provided false identity, citizenship or nationality documents. This amendment ignores the realities of seeking asylum and goes against the basic principles of the refugee convention. There are many, many reasons why people are unable to obtain identity documents or may not have had the correct documentation when they arrive in Australia, such as that their home government is refusing to issue documentation. If you have stood up to an oppressive regime to a point where you are now being tortured or your family are being targeted, you can hardly go to the passport office of that government and say: 'Look, you've treated me appallingly. You're threatening my family. I'm going to get out of here. Can you please stamp my passport or issue me a passport so I can flee.' It just does not work like that. As we know from the harrowing stories of Jews having to flee persecution in Nazi Germany or occupied France, many people had to use false documentation to get out safely. We know that that is the case, because those stories of courage and heroism have been written, retold and celebrated across the world. It is one of the
reasons that in the international convention there is a very clear statement about not punishing people because they did not have the right documentation at the time.

We know that many people may be too afraid to request documentation from their government before they leave, because they may be caught and not be able to leave in the first place. There is also the issue of not having the time to obtain documentation. I return to the story of last week about a young man who helped the Australian forces in Afghanistan who is now dead because he could not get out safely, despite the fact that he had applied through the proper means for protection in this country. The Taliban got him. Now he will never be safe because he no longer exists in this world, because he was caught for being not just a help to the Australian and coalition forces, but because he then tried to leave in an orderly manner. It puts people's lives at risk.

To propose an amendment such as that the government is here is to dismiss the experiences of those fleeing persecution. Amendments of this nature will result in genuine refugees being denied protection, purely on the basis that they were unable to provide the right documentation. This will put Australia at risk of returning refugees back to their persecutors.

I have spoken already about the retrospective nature of this legislation. We in this place should never move to change the rules and pull the rug from under people and have laws that are retrospective in their nature. It is unfair and it is not in line with what we in a fair-minded, decent country like Australia consider to be natural justice.

There are many aspects in this bill that are fundamentally dangerous and reckless to the lives of those who genuinely need our help and protection. There are many aspects to the bill, including limiting an asylum seeker's ability for family reunion. There is the rejection of applications by the RRT on the basis of new information that has been provided. There are amendments that would undermine the independence of the RRT and the MRT and deny applicants procedural fairness. The list goes on and on. There are so many holes in this bill.

I question why the government wants this brought on today. I question how long they would like this debate to go for, because as I see it the bill, as it currently stands, does not have support in this place. It needs fundamental amendments to be brought in line with what we consider to be natural justice and basic fairness under law, and also to ensure that we are not knowingly or unwittingly putting people's lives at risk and in danger.

The Australian Greens, and others I am sure, will be moving a number of amendments. It needs a lot of maintenance and fixing up to get this bill to the particular point where it should be passable by this place. It strikes me that a bill designed to make it harder for genuine refugees to apply for asylum is never going to be something that a house of review, such as the Senate, should simply rubber-stamp and pass on. We must question the motives as to why this bill is being brought on today and why the government wants to pass it so quickly this week. It will put people's lives at risk. It will send people back to danger on the flip of a coin.

And without reinstating fundamental access to legal assistance, every person who currently is waiting or has an application on foot will be at risk of being sent back to death, torture or further persecution. I am not prepared to stand by quietly and see that happen. It is not okay. We have changed a lot of laws in this place over the past few years to make things harder for those applying for asylum. I think we do need a rigorous system. I believe we have a rigorous system. You do not make it better by taking away procedural fairness and giving more unchallenged power to the minister of the day.
It is a bad idea to play with the lives of people with the flip of a coin, which is what this is proposed with this bill. I will not stand here in silence as this bill proceeds for its remaining few days. It is fundamentally flawed and it should be opposed or at the very least heavily amended.

Senator IAN MACDONALD (Queensland) (10:35): I start by congratulating the former and current ministers for immigration and border protection, Mr Morrison and Mr Dutton, for the way they have brought some order and safety to Australia's migration process. Senators will recall that under the former Labor regime, supported by the Greens political party, thousands of people lost their lives while coming to Australia. Fortunately that has stopped. There are not lives being lost by people trying to get to Australia as illegal maritime arrivals. Australia has now and has had for many years a very generous refugee and migration process that has worked over many years and which many people seeking asylum around the world participate in.

Mr Morrison and Mr Dutton have presided over a refugee and asylum-seeking regime that has now led to almost 2,000 children who were in detention under the Labor-Greens government being released from detention. As we speak, there would be fewer than 100 children in immigration detention in Australia. That is such a change from the previous Labor-Greens regime of management of Australia's borders. All congratulations, particularly to Mr Morrison, for the work he has done to bring order and safety to Australia's immigration system.

Senator Hanson-Young asked why this bill, the Migration Amendment (Protection and Other Measures) Bill 2014, is being dealt with today. On 25 June 2014 the bill was introduced in the House of Representatives. The Senate Selection of Bills Committee, on 26 June, asked the Senate Legal and Constitutional Affairs Committee, which I chair, to investigate this bill and report by 22 September 2014. Senator Hanson-Young asks why this is being brought on with indecent haste today. That seems rather a strange inquiry when one looks at the history of the passage of this bill.

Senator Hanson-Young has a gift for emotive and expressive language. Regrettably, most of what she says in this debate and in matters relating to immigration, asylum seeking and refugees is simply lacking in fact and analysis. Her language is high in emotion and expression but low in factual content. Senator Hanson-Young cannot miss an opportunity to talk about female genital mutilation, something that is abhorrent to all Australians and one of the reasons this government, and the previous government, has been so keen to address terrorism around the world. The Greens never seem to be terribly supportive of that, but they will always find something to express an emotion that really is not relevant to the subject before it. Of course, they could not miss an opportunity to compare the actions of the government to those of the Nazi Party and what happened in Germany all those years ago. It lacked fact and any relevance, but that does not stop the Greens political party from the use of those expressive and emotive but completely unfactual language.

The bill:

… seeks to amend the Migration Act 1958 … to enhance the integrity of the onshore protection determination process … the bill responds to current challenges in the domestic asylum seeker landscape and seeks to ensure public confidence in the government's capacity to assess asylum seeker claims in the interests of Australia, and against the interests of those who show bad faith.
The bill clarifies the responsibility of asylum seekers who claim to be a person in respect of whom Australia has protection obligations and encourages complete information to be provided upfront. The bill also streamlines the statutory bars that preclude certain persons from making visa applications and improves the merits review system.

It therefore deserves support.

Senator Hanson-Young raised the issue of asylum seekers with bogus documents or no documents. I think an investigation which show that many of the asylum seekers who came illegally to Australia ensures is an illegal maritime arrival had got from somewhere else to Malaysia or Indonesia. I am sure I could not not walk. I am sure they would have come by an aeroplane. To do that, to enter Malaysia, Indonesia or any of those countries in Southeast Asia, they would have had some identity documents. Strangely, in certain instances—a minority of cases—they turn up in Australia without any documentation at all. That led the Australian public over a period of time to say, 'What is going on here? What is happening? We are being made suckers.' There is a process. Australia is a world recognised for the generosity of its refugee system. It is better per capita then but it must have countries in the world, yet some people were taking advantage of Australia's good intentions.

The Senate Standing Committee on Legal and Constitutional Affairs had a very close look at this bill. We received a large number of submissions and heard from a fairly substantial number of witnesses making various points. I would point out also that this bill has been to the Joint Standing Committee on Human Rights and to the Senate Scrutiny of Bills Committee. It has been very intense process that this bill has been through. It has been very intensely scrutinised to ensure that it is in the best possible form.

I thank all those witnesses who gave evidence to the legal and constitutional affairs committee and to all of those who made submissions, which considerably helped the committee in coming to the conclusions it did. The committee also thanks, as always, the secretariat of the committee, which does a fantastic job in sorting through the huge volumes of information come forward and then in assisting the committee in preparing reports and in some cases dissenting reports. Again, my thanks to the committee secretary and her staff for the wonderful job they have done in this instance as they do in all cases.

As a result of the Senate committee's investigations, some areas were identified which the committee thought should be addressed by the government. The committee made a number of recommendations to the government. They were that the government only apply amendments to applications made on or after the commencement of the bill, or the date on which the bill was first introduced in parliament. This addresses an element of the legislation which I and other committee members—and I am sure most senators—have often had concerns about, and that is legislation that seems to work retrospectively. I personally detest legislation that changes people's rights after the event. This bill in its original form did contain that effect and the committee recommended the government should address that. I am pleased to say that in amendments introduced by the government that has been addressed.

The committee further recommended that the government consider increasing the seven-day limit, on reinstatement of an application where the applicant fails to appear, to 14 days. I did not hear all of what Senator Carr said but I thought he said that he was going to move an amendment in that regard, and I am pleased that Senator Carr has done that. I know Senator Collins, the deputy chair of the committee, was very keen to see that and argued that case in
the committee. Again, I am pleased to see that the government has accepted the committee's recommendation; and I understand the government itself will be introducing amendments to that effect.

The committee further recommended that the government amend the explanatory memorandum to clarify how the 'more likely than not' threshold will be applied by decision makers. This was addressed by both previous speakers. It took quite a deal of the committee's time to address this issue and get more information to try to understand the process. As a result of the committee's recommendation the government has amended the explanatory memorandum and I believe the amended explanatory memorandum now does clarify how that process would work and how it will be appropriately addressed. With the amendments suggested by the committee, the committee made a final recommendation that the bill should be adopted.

I do just want to make a couple of additional comments. Schedule 1 to the bill introduces a measure that would make it a noncitizen's responsibility to set out all the details of their protection visa claim, including providing sufficient evidence to substantiate such a claim. Further, the schedule expressly provides that the minister has no obligation or responsibility to assist a noncitizen with their protection visa claim, and the RRT is required to draw an inference unfavourable to the credibility of new claims or evidence, when claims were not raised or evidence was not presented to the primary decision maker from the department. There seemed to be, in the evidence of the department, a number of people who would come through, make a claim and put forward all of the facts in support of their claim; it would be rejected and then, lo and behold, when a review was sought suddenly all these new claims came up—these new reasons. That drew some suspicion from the decision makers and indeed from the RRT as to whether these claims were genuine.

As is explained in the explanatory memorandum to the bill, the proposed legislation seeks to address situations where asylum seekers have deliberately destroyed or discarded identity documents or have refused to cooperate in efforts to establish their identity, nationality or citizenship. I point out evidence to the committee by the department in this form:

By legislating that it is an asylum seeker's responsibility to specify all particulars of their claim and to provide sufficient evidence to establish that claim, the government is formalising the legitimate expectation that someone who seeks Australia's protection will put forward their case for that protection.

In his second reading speech, the minister explained that the proposed measure will not act to prevent an asylum seeker raising late claims where there exist good reasons why they could not do so earlier, but it will act to prevent:

... those non-genuine asylum seekers who attempt to exploit the independent merits review process by presenting new claims or evidence to bolster their original unsuccessful claims only after they learn why they were not found to be refugees by the department.

I repeat where I started: Australia has a very generous, genuine and open system of protection, but the department has explained that there has been considerable evidence over the past several years of non-genuine applications being made.

I did want to go through a few other aspects of the bill, but time is going to beat me. I recommend that any senator, or indeed any person who has a real interest in this particular matter, have a serious look at the committee's report—and, I might say, the additional
comments made by Labor senators as well. I do not say that I agree with all of those additional comments of Labor senators but, for those who are genuinely interested in this bill, they certainly are worth having a look at. The report of the committee goes through all of the issues in some detail. It explains the background. It explains the arguments for the proposals in the bill, and it also explains the arguments put by those opposed to those particular provisions. Then it gives the committee's view of those things as a result of the committee having been able to assess both sides of the argument, if I might put it that way.

This bill is one of many put forward by the Abbott government since its election to try to regularise and make fairer Australia's immigration, refugee and asylum seeker rules and laws so that genuine people are afforded every opportunity to become part of the Australian way of life. But it does something that, it had become regrettably obvious, needed to be done: there had to be some work done to make sure that non-genuine claims were not accepted and that people who came with bad faith—jumping the queue, almost—were dealt with appropriately in the Australian way.

I conclude by again saying that Australia does have very generous, open, genuine refugee and asylum seeker arrangements. There are many people who have been identified as refugees waiting in refugee camps all around the world. They are waiting for their turn to come to Australia. Every time someone jumps the queue, those who have been waiting for years and years have to wait another year. So it is important that we have a system that is fair to all, that accepts and welcomes those genuine asylum seekers and refugees to our country. This bill goes a long way to doing that. It is part of a suite of bills set to fix the rather unfortunate mess that our whole immigration, refugee, asylum seeker and border protection regime had got into over the last several years. I think this bill will certainly help that situation and be fair to all concerned.

Senator MILNE (Tasmania—Leader of the Australian Greens) (10:55): I rise to oppose this appalling piece of legislation, the Migration Amendment (Protection and Other Measures) Bill 2014. I oppose it because it confirms what many other countries around the world are saying—that is, that Australia, as a state party in the United Nations, has gone rogue on human rights, on international law and torture. It is not something that the Australian community is proud of. It is not something that decent people around the world can understand. How is it that a country like Australia, a rich country, could imagine that it can behave so appallingly and absolutely thumb its nose at international law.

I do not know about other senators in this chamber, but I felt really ashamed and horrified when Juan Mendez, the special rapporteur to the Human Rights Council, in Geneva, found that Australia's indefinite detention of asylum seekers on Manus Island, the harsh conditions and the failure to protect certain vulnerable individuals, all amount to breaches of the Convention Against Torture. So our government is involved in torturing people. And that just turns up on the news in amongst everything else as if this is just normal behaviour in Australia—torturing people. As a community, surely we do not support torture. As a community, surely we do support international law.

When Australia signs up to a convention on human rights, on refugees, on climate change, or on biodiversity—whatever we sign up to in the international community—there are expectations that we will adhere to those rules. Yet under the Abbott government, and additionally under the former Rudd and Gillard governments, there has developed this view of
Australian exceptionalism—that for some reason all other countries in the United Nations have to adhere to environmental law, to international law and to refugee law but Australia does not. Somehow, our circumstances are so exceptional that everybody else should be held to the law except us, and we can do as we like. Well, we cannot do as we like. We are shaming ourselves and demeaning Australia's reputation, and it is something the rest of the world will hold us to account for, not only now but into the future. We used to have a proud record and now we have a record of shame.

I want to go through some of the issues here. This bill carries with it the very likelihood that Australia will deport people back to danger, breaching our obligations under international law. It seriously compromises Australia's protection determination system, it erodes procedural safeguards, and it puts Australia at risk of breaching its non-refoulement obligations. You cannot send people back to a place where they are going to be tortured, raped, murdered, jailed and so on for the beliefs that they hold and the reasons they are seeking asylum.

It is not illegal to seek asylum. It is not; and yet day in, day out, we have Abbott government ministers talking about 'illegals'—as if people are illegal when they are exercising their rights under international law. It is not illegal to seek asylum and, for the benefit of Senator Macdonald and others, there is no queue. This idea that people seeking asylum are going outside some orderly queue is complete and utter nonsense. There are people seeking asylum all over the world as a result of appalling changes of regime and as a result of wars and civil wars. Look at what is happening in Syria at the moment, for example: hundreds of thousands of refugees have poured across the border into Jordan and other countries in the region. We are seeing massive trauma out of Afghanistan and Pakistan—Hazaras being tortured. We are seeing people who were tortured in Sri Lanka under the Rajapaksa regime. There is no orderly queue; it is not illegal to seek asylum. That is what the government need to understand, and they need to stop undermining international law.

The idea that you would require someone to prove that they are more than 50 per cent likely to be persecuted if they were returned is absolutely appalling and ridiculous. At the moment people are not even being given an opportunity to explain their situation with the accelerated processing that has gone on under the former Labor government and now under this government. It has been brought to an absolute point with the Sri Lankan asylum seekers who were being interviewed at sea. We know that was just a joke in the scheme of things, in terms of any serious assessment of their claims for asylum.

I want to talk about Sri Lanka for a moment because it really highlights just how appalling this government is. The Rajapaksa regime, in my view, was the closest thing to a totalitarian dictatorship masquerading as a democracy we have had in this region. Mahinda Rajapaksa and his brothers ran Sri Lanka as a police state. They got rid of the head of the judiciary. They disappeared anyone who stood up against the regime, in white vans. The white van would pull up outside their place; the person would be dragged into the van and then they would be tortured and disappear. And it was not just the Tamils. It was exactly as has happened in the past: they went after the intellectuals; they went after journalists; they went after anyone who was an opinion leader and disappeared them—tortured them and threatened them. They made a genocidal response to the Tamils—taking away their land, persecuting people and refusing to deal with the crimes that occurred at the end of the civil war.
When the Rajapaksas sent the head of their admiralty—who had overseen that shocking bombardment which killed hundreds and thousands of civilians at the end of the civil war in the north-east—to Australia as Sri Lanka's high commissioner, I wrote to Prime Minister Rudd and said, 'Do not accept his credentials. He is accused of international war crimes. He must not be accepted in Australia.' Other countries had sent back the credentials and refuse to recognise some of these criminals who were being sent out by the Rajapaksas. But no: the Labor government accepted his credentials. I am very pleased to say that, during the entire time he was here, I refused to meet with him or to go to any conferences or anything that he put on at the high commission. I am very pleased that the new Prime Minister of Sri Lanka has withdrawn and recalled all of these people, including three from the high commission here in Canberra who had been accepted by the Labor and Liberal governments as suitable people to represent the diplomatic corps. At least the new government in Sri Lanka has recalled them. They will suffer the consequences of the law in that country and go through the trials which will now occur around the war crimes that occurred at the end of the civil war.

Knowing full well what the Rajapaksas were doing, Australia went along with it. We have sent Sri Lankan asylum seekers back to Sri Lanka where we know people have been tortured, raped and jailed—and worse—since they have been returned. Yet, if you ask the Australian government through this whole time, 'What tracking did you do of the people you sent back?' they will say, 'Oh, it's not our job to do that unless they come to the embassy and complain. It's not our job—we just send them back.' Now we discover, as a result of the new prime minister who came out and said;

When human rights were being trampled, and democracy was at bay, these countries were silent. That is an issue for Sri Lanka.

Worse than that the new prime minister, Prime Minister Wickremesinghe, came out and said that Australia decided to pay the price of looking away from human rights abuses in Sri Lanka in order to get cooperation from the Rajapaksas on stopping asylum-seeker boats. It was a deliberate strategy: an agreement between Sri Lanka and the former Australian government—and this one—to look away. In particular, the Abbott government did a deal with the Rajapaksas to look away on human rights in order to get cooperation to 'stop the boats'. The domestic policy of stopping the boats—the popularity of the Abbott government—was more important than what happened to those people. More importantly there is the fact that we, as Australians, decided proactively to ignore human rights issues in Sri Lanka and turn a blind eye. Now, as inevitably occurs, a change in the regime has occurred. We will see what is finally revealed. We will not get it out of here; it will be refused under every FOI request anyone puts in. But we will get it from the Sri Lankan end—how former minister Morrison and Prime Minister Tony Abbott secured this deal with the Rajapaksas to the point where Prime Minister Abbott said, on 3 July 2014, that Sri Lanka is a society 'at peace.' That is a cynical lie. It was known at the time to be untrue. It was not a country at peace. It was a country going after the Tamils engaged in the most appalling behaviour. And here were we as a nation screening people in the most superficial way and refouling them to Sri Lanka. This is an appalling indictment on our country.

You now have to prove you are 50 per cent likely to be persecuted if you are returned. If you are only 49 per cent likely to be tortured or raped, well, you can be sent back to face that but if you are 51 per cent likely, you can stay—what a nonsense is that? The High Court made
an interpretation of this back in 1989 with Justice Mason when he said this has to be interpreted as a substantial chance of suffering torture or jail or persecution if you are returned. What you had to prove in order to be regarded as a refugee was a significant chance, a real chance—not a remote chance but a real chance. It was not a choice of saying, well, you are more likely than not, which is how this government wants to change it.

How can someone prove they have a 50 per cent or more or less chance of being persecuted? You either have a real chance of being persecuted or a remote chance. But 50 per cent is going to be a totally subjective judgement and it is yet another example of this government doing everything it can to send everybody back and say they were unable to prove to a satisfaction of a 50 per cent likelihood test. Are you 51 per cent likely to be raped or 49 per cent? Well, let's make a decision on that—and off you go if you have got a 49 per cent chance. That is appalling behaviour contrary to the High Court ruling that was made in '89 and has been actually upheld in the High Court ever since.

Complementary protection is for people who have been subjected to gross violations of their human rights but for non-refugee convention reasons because the refugee convention does not look particularly at issues of gender or sexuality. So it is people who face a real risk of torture upon returning to their country of origin or women fleeing honour killings or genital mutilation, for example. I find this extraordinary because Minister Bishop has made a very big issue of trying to crack down on female genital mutilation. She said, quite rightly, it is illegal in all states and territories. She has said it is vital that family members or friends who know about any such plans to let the authorities know. She was horrified at the prospect of fathers sending their daughters overseas where they would be subjected to this practice. We have the minister who represents the Prime Minister on this, Senator Cash, coming out making great speeches and op-eds on her opposition to female genital mutilation. Yet we now have the very same government that is supposedly outraged by this practice now allowing people to be sent back to actually suffer this fate because it is abolishing complementary protection. That is appalling.

We have got to the point where this legislation has been opposed by all the key stakeholders groups—UNICEF, the Law Council of Australia, the Castan Centre for Human Rights Law, Amnesty International, the ANU College of Law, the Asylum Seeker Resource Centre, the Human Rights Resource Centre, the UNHCR—with all of them saying exactly what the Greens are saying here: this is contrary to international law, it is contrary to human rights, it is contrary to human decency and it is making Australia's reputation globally go to a point where we are seen as a rogue nation. The UNHCR had this to say:

…it is UNHCR's long-held view, supported widely by state practice, that it is incumbent upon the decision-maker to use the means at his/her disposal to produce the necessary evidence in relation to the application. This may not, however, always be successful and there may also be elements that are not susceptible of proof. In such circumstances, if the applicant has made a genuine effort to substantiate his/her claim, all available evidence has been obtained and checked and the examiner is satisfied as to the applicant's general credibility, the applicant should, unless there are good reasons to the contrary, be given the benefit of the doubt.

There is no benefit of the doubt here in this legislation. What this legislation does is remove the benefit of the doubt because the government wants to send people back—plain and simple.
You would think that Australia, in this exceptionalism that is talked about by the government, is somehow having this rash of refugees that does not occur in other countries. If you look at a country like Austria, for example, it has something like 70,000 a year, which dwarfs Australia. Even if you look at 2013 when Australia had 20,587, there were 70,000 going into Austria.

Italy, in the first month of this year, had 6,000 arrivals by boat yet the Italians debate whether the lengths they go to rescue people are good enough and whether they need to do more. Jordan is suffering, as I said, the pressure of hundreds of thousands of refugees in that country yet the Jordanians continue to offer refuge to people because they understand that these people are genuine and they are running away from conflict situations where their lives are at risk. Firstly, countries like Jordan deserve our support and assistance in doing what they can but equally we have to do our bit doing what we can to uphold the law, uphold international law, recognise it is not illegal to seek asylum. Secondly, there is no queue. People leave for all kinds of reasons and regimes change. You cannot say today ‘you have a 50 per cent chance’. You cannot predict what is going to happen in the future, what the changes are going to be; you can only take the evidence before you.

This government is determined to do everything it actually can to load the whole system against the poorest, most vulnerable people that you could find—that is, people who have been forced to leave their country because of fear for their lives, fear for their families and fear for their futures. This really is a disgraceful piece of legislation and it should be opposed on the basis that it is against humanity, and against international law and against common decency. As Australians representing our community in this parliament we should vote it down.

Senator REYNOLDS (Western Australia) (11:15): I too rise today to speak on the Migration Amendment (Protection and Other Measures) Bill 2014. This is a bill that is vital to the continued success of legislation passed in this place last year to secure our borders and to speed up processing of genuine asylum seeker claims.

I would like to state up-front that I believe it is in our national interest that we are able to determine the identity of those seeking asylum in Australia. I believe it is simply the right thing to do. This bill clarifies and codifies the responsibilities on asylum seekers to assist authorities in proving who they are and where they come from—hardly an unreasonable expectation of somebody seeking asylum in this country.

I previously rose to speak on the migration and maritime powers amendment bill last year, which was passed by the Senate on the final sitting day of last year with the support of the Palmer United Party and senators Day, Leyonhjelm, Muir and Xenophon. Already in this short time and as a result of that legislation, we are making significant improvements for our border protection agencies. We are also providing greater support to those who have arrived illegally by boat. That bill last year reaffirmed the coalition's strong stance on border protection in a way that I believe is both timely and therefore humane—sadly, two characteristics that were not readily evident in the past government's border protection policies.

About Senator Milne's language in her speech just then, with Australia going 'rogue' and torturing people—really! How utterly offensive to all Australians, to the Australian
government and to the men and women of our border protection and other relevant agencies—

Senator Milne: Mr Acting Deputy President, I rise on a point of order. I just want to point out that the special rapporteur, Juan Mendez, said we were in breach—

The ACTING DEPUTY PRESIDENT (Senator Bernardi): Senator Milne, this is a debating point; it is not a point of order. You have had your opportunity to speak.

Senator REYNOLDS: I also note that I understand when that report was made, no information or verification was done of those particular claims. So it is hardly a very credible report, I would suggest.

Again, I would ask those opposite—and particularly those in the Greens—who are coming in and using such awful language and making such terrible suggestions about our border protection agencies: where were they when 1,200 people or more died the most heinous deaths, and 8,000 children went through detention? Where were they then?

Senator Hanson-Young: Where were you?

Senator REYNOLDS: When were they worried about human rights?

Senator Hanson-Young: Where were you?

Senator Di Natale interjecting—

The ACTING DEPUTY PRESIDENT: Order! Senator Hanson-Young! It is clear to me that Senator Reynolds wants to continue without disorderly interjections, so I would ask that both Senator Di Natale and Senator Hanson-Young cease being disorderly.

Senator REYNOLDS: If they would like me to answer the question, I will tell you where they were—they were actually supporting the Labor Party and their policies that implemented this. And they supported the Labor government, so I think that is where they were.

Senator Hanson-Young: Where were you?

Senator REYNOLDS: By Senator Hanson-Young equating this government and the people who serve in this government with Nazi Germany and by using some of the most heinous crimes against women—rape, genital mutilation and other such torture—to try to suggest that this government and the men and women who serve this government are torturing and would support the torture of these women is utterly offensive.

In their speeches, both Senator Hanson-Young and Senator Milne have also made a series of extremely vague and unsubstantiated allegations that this legislation breaches international legal obligations, including non-refoulment. But as always, there was not one specific shred of evidence of which convention it breached or what section or precedent it may breach. Again, there was nothing from those on the other side except overblown hyperbole and rhetoric.

Last year's legislation reintroduced temporary protection visas, and they are now a critical component of the government's key objective to process the current backlog of illegal maritime arrivals. To me, this is a humane outcome. Under the previous government—that they supported—and its legislation it could take up to seven years to process people. That is not a humane outcome.
The legislation also included the introduction of the fast-track system, amongst other measures to achieve this. As a result of that legislation—pleasingly and wonderfully—the number of children in detention has fallen from a high of nearly 2,000 under the previous government to less than 120 today, as I understand it. And action is now being taken to get the remaining number out of detention.

This bill before the Senate today is another crucial step in ensuring a safe and secure Australia, and it is one of a raft of measures to resolve the immigration status of the illegal maritime arrivals legacy caseload—a disgraceful 30,000 people—who arrived under the previous Labor government with the support of the Greens. Thirty thousand people were waiting up to seven years to have their claims processed. That is not humane!

**Senator Hanson-Young:** What's that got to do with female genital mutilation?

**The ACTING DEPUTY PRESIDENT:** Order! Senator Hanson-Young!

**Senator REYNOLDS:** This bill is also crucial for the legislative measures passed by parliament last year to—

**Senator Hanson-Young:** And now you want to send them back!

**The ACTING DEPUTY PRESIDENT:** Order! Senator Hanson-Young: you are being disorderly. I would ask you to cease interjecting, please, so that Senator Reynolds can conclude her statement to the Senate.

**Senator REYNOLDS:** Senator Hanson-Young would like some facts, Mr Acting Deputy President, and I would love to provide them: 1,200 people died under the policies of those opposite, 8,000 children were in detention and 30,000 people were waiting for up to seven years to have their claims processed by the government that the Greens supported. Those are the facts, as inconvenient as they are for the Greens and for those opposite.

The amendments under this bill—

**Senator Hanson-Young:** Now you want to send them back to be shot.

**The ACTING DEPUTY PRESIDENT:** Senator Hanson-Young, you have had your contribution already to this debate. We do not need you chiming in on others—

**Senator REYNOLDS:** I listened in silence—

**Senator Hanson-Young:** You weren't even in the room. That's how much you care.

**Senator REYNOLDS:** I listened to both of you.

**The ACTING DEPUTY PRESIDENT:** Order! Senator Hanson-Young, you are being disorderly.

**Senator REYNOLDS:** The amendments in this bill seek to clarify the responsibilities on asylum seekers so that this identification can occur as soon as possible after arrival. The amendments codify the existing responsibilities of asylum seekers in relation to protection claims in the Migration Act 1958. The bill clarifies that any person's claim for a protection visa must be comprehensive and supported to the best of the asylum seeker's ability—hardly unreasonable in the circumstances.

I would like to reiterate that these responsibilities exist currently and that the proposed amendments make no changes to the requirements placed on asylum seekers. The amendments seek to clarify these responsibilities in the legislation. Further, these
responsibilities are consistent with an acknowledged, longstanding principle of international refugee law—that is, ‘the burden of proof lies on the person submitting a claim’. That is the current burden of proof in international refugee law—although you would not know it from listening to those opposite.

This principle is an important one. In making a claim, an asylum seeker must provide supporting evidence to the best of their ability, to allow our border protection officials to decide whether there is an obligation to provide protection. Again, on behalf of the Australian people, this is not an unreasonable requirement. Without the assistance of the asylum seeker making the claim, the jobs of our border protection and immigration officials become extremely difficult—if they cannot prove who these people are. Whilst officials can continue to ask questions and seek clarification on information given by the applicant, early and full presentation of claims allows refugees to be recognised much earlier, which again is the more humane outcome rather than making them wait years and years.

Further, the amendments will allow our border protection officers to process asylum seekers in an efficient manner, which will see those who need asylum granted protection at the earliest possible opportunity instead of having to wait up to seven years as is currently the case. The importance of presenting a full claim for protection at the earliest opportunity is, as I have said, essential both for the claimants and the Australian government.

Currently, non-genuine asylum seekers can, and do, exploit the application process by presenting new claims or evidence at the review stage. This deliberately causes significant delays in processing their claims and the claims of other applicants. This bill enables the Refugee Review Tribunal to draw an unfavourable inference about the credibility of claims or evidence that is not raised at the earliest possible opportunity. Again, this is a very fair and reasonable requirement. This will discourage the late presentation of evidence and ensure that applications are able to be processed in a timely manner. If people can provide the evidence, they should provide it at the earliest possible opportunity.

The bill includes safeguards to ensure that applicants with a genuine need for protection are dealt with appropriately. If new claims and evidence are accompanied by a reasonable explanation as to why this information has been provided later, the tribunal will address all the claims and evidence on their merits. These amendments strike a totally appropriate balance between deterring abuse of the system—which is clearly occurring at the moment—and ensuring procedural fairness for those who are in genuine need of assistance.

We are all too aware that many asylum seekers, on the advice of people smugglers, destroy their identity documents before they arrive in Australia, assuming that they will just be given the benefit of the doubt. I know from my personal experience in this policy area that people smugglers do recommend to asylum seekers that they give up their identity documents before they are permitted to board boats in Australia. We know this. We know it is true and we know it has been a longstanding practice.

These identity documents have previously been used by the same asylum seekers to travel to Indonesia, sometimes on one, two or even three different flights, through customs and borders in a number of countries before they get to Indonesia. We know that for many of them their identity documents did exist but they are destroyed to give them a better chance and to exploit our goodwill and our current systems.
If you are a genuine refugee, an identity document should be the most important document that you hold and you should retain it throughout your journey to Australia because it will also assist to prove your case. The destruction of these documents, quite rightly, raises concerns about the validity of asylum seekers' claims, as does the use of forged documents, which is also something that occurs.

Establishing a person's identity, nationality or citizenship is central to determining protection visa eligibility. People smugglers do not screen their customers on the basis of whether they are a genuine refugee or not; this point is irrelevant to them. As long as they have the cash, they will take them. They will take anyone who has the US$10,000 dollars or more—although, I understand it is a bit cheaper lately due to our border protection policies. They do not screen them for the genuineness of their claims.

We cannot rely on the simple fact that a person has paid a people smuggler—and flown through a number of countries, ending up in Indonesia, with or without documentation—to prove that they are in fact a genuine refugee. The simple fact that they have put themselves on this boat is not sufficient for us to say, 'Yes, they are a genuine refugee'. We must be able to establish their identity. It is, therefore, vital that the use of bogus identity documents, and the destruction or discarding of documentary evidence, is discouraged and not rewarded. The measures proposed in this bill are critical in this respect.

Despite what Senator Milne has just told us, this amendment is not a case of Australia going rogue, Australia going it alone or evidence of international exceptionalism, because, in fact, it is in line with legislation already in the United States, in the United Kingdom and in New Zealand. So this is hardly going rogue. It is hardly going against our international obligations or an example of exceptionalism.

I would also like to address some of the claims of those opposite that there are no safeguards. The safeguards to ensure an asylum seeker is afforded procedural fairness remain unchanged. I will say that again: the safeguards to ensure an asylum seeker is afforded procedural fairness remain unchanged. The codes of procedure within the Migration Act will ensure these new measures are used appropriately and that all protection visa applications will continue to be assessed in good faith.

The primary purpose of these amendments is not visa refusal but to ensure that asylum seekers are aware of the importance of providing genuine documentation as soon as they can. To rebut what has also been suggested by the Greens speakers: where an applicant has a reasonable explanation for failing to produce original documents and has taken all reasonable steps to do so, these amendments will not be invoked. Additionally, these amendments represent a fair and balanced approach to handling claims in the absence of documentation provided by the applicant. I believe it is absolutely imperative that our Border Protection officials are able to determine the identity of those seeking asylum in Australia, and these amendments are critical to ensuring that they can.

I am also aware that the opposition have indicated that they support all parts of this bill other than schedule 2, which concerns the 'more likely than not' threshold for complementary protection. 'Complementary protection' is a term that describes a possible visa pathway for a category of people who, whilst not meeting the refugee convention definition, are nonetheless in need of protection on the basis that they would face serious violations of their human rights if sent back to their receiving country. For this class of people, the bill seeks to restore the
originally intended 'more likely than not' threshold, which I think is a very good thing and a fair thing.

This threshold is an acceptable position open to Australia under international law and is consistent with the thresholds adopted in both the United States and Canada, despite the assertions by the Greens that this somehow represents Australia going rogue; it does not. Despite what they would have us believe, this test does not require decision makers to precisely determine whether there is a 48, 49 or 47 per cent chance of an asylum seeker being subject to torture. It is not a quantifiable, greater than 50 per cent chance style of test—and that is very clear. The Greens' assertion is simply not true. Civil courts in this country make judgements every day based on the balance of probability. The 'more likely than not' test is the same threshold. It is a fair and reasonable standard to use in the case of complementary protection.

It is interesting to note that this threshold is the same threshold that was initially adopted by the Labor government when the Migration Amendment (Complementary Protection) Act commenced in March 2012. I say that again: this is exactly the same threshold test that was introduced by Labor in 2012. It is par for the course that Labor are now rejecting the very threshold that they themselves adopted. This bill's intention is not to raise the threshold but merely to return it to the level which was set by Labor. Once again, those opposite are seeking to derail the government's pledge to take control of our borders and restore faith in Australia's immigration measures.

If Labor and the Greens vote with the government today, we could ensure that thousands of illegal maritime arrivals have their asylum applications dealt with in the most efficient and
to those who genuinely meet the criteria, but we will not provide them to those who board a boat without a genuine claim. We must be able to determine who is genuine and who is not. It is simply in our national interest to do so.

We must also be able to determine who is a potential risk to our community. While these cases are rare, there are documented cases of asylum seekers who have gone on to commit heinous crimes in our community. We do have a duty of care to all Australians. This bill will provide clarity to asylum seekers and give our Border Protection officials the tools necessary to process claims efficiently and fairly.

It is for these reasons that I will be supporting the bill, and I commend it to the Senate.

Senator WRIGHT (South Australia) (11:37): I rise to speak on the Migration Amendment (Protection and Other Measures) Bill 2014, which seeks to amend the Migration Act 1958. If those listening to the debate today take away nothing else, I would ask them to take away the understanding that this bill, if passed, has the very real likelihood of Australia deporting people—fellow human beings—who have come to us legally—

Senator O'Sullivan: Illegally.

Senator WRIGHT: Legally. Legally seeking protection under international law. There will be a real risk of deporting those people back to danger, persecution, torture and death. In turning our backs, in sending such people back, we will be breaching obligations that we voluntarily signed up to under international law. As well as that, if this bill is passed it will seriously further compromise the integrity of what has been a rigorous protection determination system. It will erode procedural safeguards, the protections that ensure people in Australia can receive what we like to think of being a fair trial, and it will put Australia at risk of breaching its non-refoulement obligations.

Today I am speaking as the spokesperson for the Australian Greens on legal affairs and I particularly want to take a human rights perspective on this legislation. There is no doubt that if passed this bill will significantly engage and be incompatible with various human rights, again, human rights that Australia has voluntarily signed up to respect and abide by. The human rights that are engaged have been identified both by the Parliamentary Joint Committee on Human Rights and also other concerned individuals and organisations, who made submissions to the Senate Legal and Constitutional Affairs Legislation Committee when it inquired recently into the bill.

The Parliamentary Joint Committee on Human Rights has considered this bill at length and has sought responses from the Minister for Immigration and Border Protection to particular concerns and queries. That analysis is not yet complete, but as is all too often the case in this parliament, where we have significant legislation such as this that engages a wide range of human rights, the result of that committee's scrutiny—the report that will identify the rights that are engaged and the risk that those rights will not be dealt with in a compatible way—has not yet been tabled. This is becoming a common occurrence in this parliament. This parliamentary debate we are having on this significant piece of legislation will not have the benefit of the committee's considerations and has not been informed by it. Those speaking already, who are making assertions about the fact that this bill will not affect Australia's human rights, have not had the benefit of that parliamentary committee's consideration. They have not been informed by the expert advice that his so integral to the committee's
understanding of our international obligations under seven human rights treaties. These are treaties that Australia has voluntarily and proudly entered into.

This is arguably exactly the type of legislation that the committee was established to scrutinise. It is clear that this bill engages at least the following human rights: the right to equality and non-discrimination; the obligations that Australia has to have non-refoulement so that individuals are not sent back to face torture, threat and persecution in the country from which they have fled; the right to freedom from arbitrary detention; the obligation to consider the best interests of the child; the obligation to treat the best interests of the child as the primary consideration; and the right to a fair trial. These are human rights that Australia was once very proud to sign up to, saying that we stand by them.

How does this legislation stack up? There have been many concerns raised by a range of eminent and expert organisations and individuals who understand just what is at stake in Australia when we trade away human rights for political expediency. I say to people listening to and reading this debate, don't think that this will only affect people who do not originally come from Australia, because every time we take steps to erode the human rights that we have voluntarily signed up to, those steps will ultimately come back and affect all of us.

Those organisations that made submission to the Senate Legal and Constitutional Affairs Legislation Committee are: Amnesty International, the Castan Centre for Human Rights Law, the Canberra Refugee Action Committee, the Association for the Prevention of Torture and the Victorian Foundation for Survivors of Torture Inc, the Migration Review Tribunal, the Refugee Review Tribunal, The Andrew and Renata Kaldor Centre for International Refugee Law, UNICEF Australia, ANU College of Law—Migration Law Program, the Law Council of Australia, the Refugee Advice and Casework Service, the Refugee Council of Australia, the Immigration Advice and Rights Centre, the Human Rights Law Centre, and the United Nations High Commissioner for Refugees

Let us pause to remember who we are talking about here. We are talking about people who have come to our country under the right they have to do so under international law. So there is nothing illegal about what they are choosing to do. They come to our country seeking asylum, because they have to flee their own homeland. No-one does that lightly. No-one leaves their homeland lightly. But it is what any one of us would or could do if we or our families are threatened by death or torture. I ask people to reflect for just a minute on what they would do if they were facing some of the circumstances that these people face. It is what people were doing in the Second World War. It is the aftermath of that war, with thousands of refugees around the world, that was the genesis of the refugee convention, in 1951, which Australia voluntarily and proudly signed up to. That refugee convention remains a cornerstone of protection. There have been changes along the way, including regional conventions created in its image. The principle of not forcibly returning people to territories where they could face persecution, the principle called non-refoulement, has become fundamental in international law. Yet it is this principle which is under threat in this legislation.

Let me turn to some of the aspects of the bill which are particularly concerning. The first one is changing the burden of proof for those who are seeking to make a protection application. The amendments proposed by the bill state that the burden of proof will rest
solely on the applicant to prove that they are a person to whom Australia has protection obligations and that sufficient evidence must be provided in the first instance to establish that claim. Of course, ultimately a person has to be able to prove and establish their case. But that is not the whole story if we consider the circumstances that give rise to such an application in the first place. Someone who arrives here who is a genuine refugee may have nothing with them. When you consider the reason they have come, they have not necessarily packed their suitcase. They have not necessarily been able to leave their country of origin in an orderly fashion. The very fact that they are fleeing in fear of death, persecution or torture may well mean that they have nothing with them when they arrive. They are certainly almost never going to have a fine and detailed knowledge of Australia's migration law. That is, indeed, the very reason that the Office of the United Nations High Commissioner for Refugees has stated:

… while the burden of proof in principle rests on the applicant, the duty to ascertain and evaluate all the relevant facts is shared between the applicant and the examiner.

If we cast our minds back to why Australia was prepared to sign up to the refugee convention in the first place, it was because there was an understanding that people will need and will seek protection in countries of asylum when they are fleeing such persecution and torture. In those days—and still for many of us—it was considered that someone who was seeking that protection was not doing the wrong thing, something that was nefarious or illegal, but indeed was seeking that assistance, that protection and that haven. Therefore it would have seemed, and it is logical to think, that the country that is having the legal processes would also understand that there is a shared job to do between the applicant and the examiner, to give every opportunity to see whether or not that person has indeed fled the persecution or the threat and whether or not they have a genuine case for protection.

The Office of the United Nations High Commissioner for Refugees goes on to say:

Indeed, in some cases, it may be for the examiner to use all the means at his disposal to produce the necessary evidence in support of the application … it is hardly possible for a refugee to "prove" every part of his case and, indeed, if this were a requirement the majority of refugees would not be recognized.

That makes perfect sense. But, as a result of this bill, for someone who turns up in Australia—who may not speak English, will almost certainly have no idea about the finer points of Australian migration law and may not have a dollar to their name—the response will be: 'Front up. Prove every single aspect of your case. Otherwise we will consider sending you back.' To add insult to injury, this is coming on top of this government cutting funding for legal advice to help these people prepare their cases to these very same people.

The second aspect of the bill which causes great concern is the requirement of 'more likely than not'. These amendments also seek to significantly increase the risk threshold for people who are fleeing harm before they can receive Australian protection. This will lead to an increased risk that we will be deporting people who are in genuine need of protection back to face the very threats that they were fleeing. Currently, when consideration is being made about the risk to a person if they are to be forcibly returned to the country from which they have fled, Australia has an obligation of non-refoulement—of not sending them back to face that danger. The threshold is where there is a real risk or substantial grounds to find that that person would indeed be in danger if they were to be returned. But these amendments would seek to change the risk threshold to 'more likely than not'.

---

CHAMBER
What does that mean? We had Senator Reynolds talking about the civil burden of proof in the Australian legal system—the balance of probabilities, which is often described as being 'more likely than not'. Indeed, when law students are learning about what the balance of probability means, they are often told that above 50 per cent is more likely than not. Why is it that in Australia we have a different burden of proof when it comes to criminal law and civil law? For civil law it is 'more likely than not', and for criminal law it is 'beyond reasonable doubt'. That is because it reflects an understanding that, when we are talking about criminal law, the consequences of finding a person guilty are so much more serious than consequences under civil law. So that is the reason that we do not have a balance of probabilities in criminal law: because the consequences are so serious.

We are talking here about the risk of sending people back to torture, persecution and death, and this government is talking about changing that balance to being 'more likely than not'—essentially the civil law balance of probabilities, more than 50 per cent. So, under the proposed amendments, asylum seekers will have to prove that they have a greater than 50 per cent chance of being tortured or killed if they are not given protection. These are the asylum seekers who would be subject to 'complementary' protection, and I will come back to who those people will be. So, if a decision is being made and a person may have, say, a 40 per cent chance of being returned to serious harm, there is then the significant and real risk that they will be deported, because that threshold has changed.

These changes are in contravention of international and human rights law—in particular the International Covenant on Civil and Political Rights, which Australia has signed up to; the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, which Australia has signed up to; and the principle of non-refoulement, to which Australia is a party.

These proposed amendments for now—for now—refer to people who are seeking protection on what are called complementary grounds. These are people who would not be captured by the refugee convention but still require protection because they are fleeing serious harm such as torture. These might be people like women who are fleeing the risk of honour killings, or young women who are seeking protection because they are at risk of female genital mutilation if they were to be returned home. These proposed amendments will mean Australia's protection obligations will only be engaged when the minister considers it more likely than not that the person will suffer significant harm if returned. So, if there is only a 40 per cent chance of being killed in an honour killing, if there is only a 40 per cent chance of being returned to serious harm, there is then the significant and real risk that they will be deported.

As stated by Mr David Manne, the CEO of the Refugee and Immigration Legal Centre:

The proposed 'more likely than not' test would ultimately significantly increase the risk of Australia making the wrong decision on whether or not somebody should be protected from serious harm. The test raises the real prospect of returning people to persecution or other forms of life-threatening harm, in violation of our non-refoulement obligations. That is the bottom line here.

There are other concerns that are raised by the amendments in this bill as well, and they are in relation to the tribunal processes—the ability of a person to be assured that they will have a fair trial in Australia and the processes of the Refugee Tribunal and the Migration Review Tribunal. So there are serious concerns about schedule 4 of the bill, which arguably will
undermine the independence of the Refugee Review Tribunal and the Migration Review Tribunal and deny applicants procedural fairness.

As a lawyer, that particularly concerns me because this is the integrity of our legal system. And it is not just people who are non-citizens who need to be worried; if we allow this erosion of basic principles of a fair trial, ultimately we risk that affecting all Australians citizens anyway. And so we have amendments that would enable the principal member of the tribunals to issue guidance decisions, whereas the principle currently is that a tribunal member can hear and assess the evidence and make an independent decision. There have been concerns that this would unnecessarily fetter the discretion and independence of tribunal members to consider the merits of a particular case. One does not have to think too hard to get why some of that guidance might ultimately be made.

As well as that, there have been concerns raised about amendments that would see only oral decisions being handed down by the Refugee Review Tribunal and the Migration Review Tribunal and written decisions only being available if specifically requested. In their experience, the Refugee and Immigration Legal Centre have stated:

Applicants often struggle to understand key elements of their decision, even after a detailed explanation...and may also not understand the need to request written reasons within the limited time period. The consequence of failing to obtain a written statement of reasons could seriously compromise a person's capacity to seek judicial review—again undermining the right that we would expect persons in Australia to have to a fair trial.

Finally, there is the fact that the provisions in this bill are drafted to apply retrospectively, again transgressing a long-held principle in Australian law that you do not introduce retrospectivity when there are serious consequences like this. Should this bill be passed, people who have applications on foot will be disadvantaged despite at all times meeting the criteria for a visa grant prior to the change. Evidence that was provided to the Legal and Constitutional Affairs Legislation Committee by the Refugee Review Tribunal and the Migration Review Tribunal states that there are currently 4,400 cases that will be affected should this bill pass. With the passing of this bill, the rights that are currently with those people will be retrospectively affected and taken away.

As stated by Amnesty International, these amendments, if passed, will adversely impact a large cohort of individuals who have always complied with the criteria for their protection applications. These changes will mean that they are found to no longer meet these requirements simply because the goalposts have moved around them. This is plainly unfair and must not be allowed to come into effect.

If this parliament passes this legislation, I know that we will be judged. What I think is really important to remember is that this is not just about people who are coming to seek asylum in Australia; this is about who we are as a parliament. This is about what we consider to be fundamental and important principles in our Australian legal system and as part of our humanity.

Senator BERNARDI (South Australia) (11:56): Today I rise to speak on the Migration Amendment (Protection and Other Measures) Bill 2014. Before I get into the particulars of the bill I want to spend some time informing the Senate and revisiting the appalling track record that has led us to the circumstances we face today in dealing with further amendments
to migration in this country. And it is an appalling indictment of the history of the Green movement and the Labor Party when in government in this area of legislation.

Let's remind ourselves that when Labor came to office in 2007 there were no children in detention. But, thanks to what could only generously be described as ad hoc, erratic decisions of the Rudd-Gillard-Rudd governments, the number of children under those governments peaked at 1,992. It went from zero when they were elected in 2007 to 1,992 children in detention under Australian law. The Labor-Greens alliance that governed this country undermined Australia's border protection. It weakened our borders, it weakened our immigration program, and I put to you that it weakened our national sovereignty. They were prepared to sacrifice the right of Australia to determine its own migration and asylum seeker policies on the altar of some global refugee convention whilst ignoring the reality of the circumstances we faced. Their policies created a backlog of illegal maritime arrivals.

Let me address this furphy that keeps going around. No-one has ever said it is illegal to seek asylum. No-one in the government has ever said that, but what they have said repeatedly is that it is illegal to enter Australia's maritime or sovereign territorial waters without an appropriate visa and without permission. That is about national sovereignty. So, when we are referring to 'illegals', we are referring to illegal maritime arrivals, of which there were tens of thousands under the previous government.

When we are considering those illegal maritime arrivals, we also have to consider those who sought to enter our country's territorial waters illegally but could not get here. They could not get here because the ships they were on were leaky and they sank. Thousands of people—no-one will ever know how many—died at sea thanks to the policies of those elsewhere. When we hear the sanctimonious and pious Greens stand up in this place and say that they have a mortgage on compassion, what they ignore is that when confronted with these deaths at sea, the so-called compassionate ones, Senator Hanson-Young and her crew, say: 'Tragedies happen. Accidents happen.' Let's do a Pontius Pilate and wash our hands of a thousand deaths caused by ridiculous and dangerous policies! And they continue to pursue them today and that is what we are trying to fix. I am tired, and the Australian people are tired, of having to listen to the same nonsense, the drivel that comes out of the Green's mouths.

I had the misfortune to listen to the last three speakers and the first two of them, Senator Hanson-Young and Senator Milne, were absolutely offensive. I ask myself: at what point do we get where senators in this place are prepared to back every side in the competition except Australia? They are prepared to back the United Nations—the same group who put the late Colonel Gaddafi in charge of the human rights committee at the United Nations. They are prepared to back a guy who put forward a report claiming Australia are effectively torturing people, because we are trying to control our borders. But they do not highlight the fact that there was no critical examination of the submissions put to him by those who continue to sit and deny reality.

The reality is that we comply with our international human rights obligations. The reality is that we have a very generous humanitarian refugee intake. The reality is that we have stopped people from illegally entering Australia's territorial waters and, appropriately so, we have stopped people from dying at sea. Yet, somehow, we are supposed to not be compassionate, according to those opposite. It is an appalling indictment on the rhetoric around this debate.
The policies of the previous government, aided by the Greens alliance, incentivised thousands of people to take advantage of what they saw as a loophole and try to scam the system. There is no question about that. Senator Macdonald highlighted this and Senator Reynolds did as well, that people would travel from their homelands through one, two, three or four different countries until they could get to Indonesia, where they would pay a people smuggler thousands of dollars—more than it would have cost them in an airfare—and they would then ditch their papers. When they got into Australia's territorial waters, they would get on the satellite phone and say, 'Come and pick us up.' According to the Greens, that is okay; that is how we should be running our immigration policy in this country.

I had the misfortune to listen to Senator Milne going off about Australia being terrible custodians, that somehow we were torturing people and not honouring our international commitments. I reject that and I find it absolutely offensive. The Greens are the same group of people who will not condemn terrorists as terrorists. That is what they did with a previous bill in this place—they refused to say that people who are terrorists under Australian law were terrorists; they wanted to give them the benefit of the doubt. Where are they on these terrible regimes that are happening elsewhere? They can only diss the government here. That is the great tragedy of it.

Senator Milne talks about how there are so many more asylum seekers in Europe and that Austria took 70,000 or so—so many more than Australia. Senator Milne needs to go to Europe and look at the consequences of the failure of border protection there, where we see European sovereignty and national cohesion falling to bits because governments have refused to deal with the issues around controlling their borders and having orderly migration programs. Senator Milne referred to Italy and what they are doing to assist asylum seekers. When I went to Europe to look at this problem firsthand rather than through the prism of the green glass of the United Nations, I saw that tens of thousands of people, waves of people, were coming to Italy and that that country gave all of them tickets to France. France shut down their border because they knew they were being scammed. It is disorderly; it is chaos. The European Union is going broke at a rate of knots and it is because a great deal of this is due to the mismanagement by governments of migration and how to deal with the influx of people claiming refugee status. They do not have an orderly process for it to happen.

You can go to entire communities and suburbs from Sweden and Finland right through to southern Italy and Greece and you will find that they are populated almost entirely by people without appropriate documentation. It is a circumstance which no responsible government should be allowed to encourage. Yet what we have here is virtually the same thing coming from the Greens: 'Open the borders. Let anyone come here who wants to. We don't have to know who they are. They can make up whatever name they like. Bring them on in.'

I remember former colleague Wilson Tuckey, the former member for O'Connor, one of the great characters in this place but a man who occasionally told some startling truths, saying: 'If you want to get a criminal or a terrorist into this country, of course you would hide them amongst a boat of undocumented people because you cannot challenge who they are. They can make up whatever they like and you cannot do the research on them.' Of course, Mr Tuckey was widely condemned for that view, but he was absolutely right.

If you look at some of the issues we are facing in this country today, whether it is terrorist activity, insurgent activity, extremist activity or general crime, you will find there are
elements of this that can be traced back to a disorderly migration program. To say that is not being racist or anything like that; it is simply stating some facts and some truths.

This bill, the Migration Amendment (Protection and Other Measures) Bill 2014, seeks to build upon a change that went through this parliament last year—the Migration and Maritime Powers Legislation Amendment (Resolving the Asylum Legacy Caseload) Bill 2014. That bill went through on the last sitting day of last year. It took that long to get the bill through because those on the other side did not want to resolve the asylum case load issue. They were happy for people to be in detention; they were happy for people to be coming here—illegally entering our territorial waters. That bill re-created temporary protection visas, it got children out of detention on Christmas Island and it introduced, among other measures, a fast-track system. I acknowledge that getting that bill through relied on the support of the Palmer United Party and Senators Day, Leyonhjelm, Muir and Xenophon. It got that support because it was a sensible amendment, a sensible change. This bill builds upon that one. It makes a number of amendments to enhance the efficiency and integrity of Australia’s determination process for onshore refugee status and complementary protection. This bill is important because it is necessary to enable the earlier bill, the one I just referred to, to work optimally. It is going to increase efficiency and it is going to enhance the integrity of the determination process for onshore refugee status and complementary protection.

It is extraordinary to think that anyone could object to the requirement that a person seeking asylum in this country has to be able to prove their identity. I find it extraordinary that, after someone makes a claim for asylum and that claim is denied on valid grounds, they can then cook up another story and we have to take it seriously. Unfortunately, under the current regime, we do have to take it seriously. Effectively they get to say, ‘I will try this and, if that does not work, I will try this—and I will keep trying and trying until I get the outcome I want.’ That is not how the system should be operating, yet that is precisely what the Greens are advocating in their opposition to this bill.

There will be some amendments to this bill coming through. Senator Macdonald, who is chair of the Senate Legal and Constitutional Affairs Legislation Committee, has highlighted that some of the committee’s recommendations will be accepted by the government. I understand that Senator Carr is also proposing to move an amendment that the government will accept as well. That gives a sense of how we can achieve sensible outcomes in this area. We do not need pious rhetoric built around fictions and half-truths, rhetoric built around melodious, emotive language designed to tug at the heartstrings. People nod their heads when they hear such rhetoric, but it does not stand up to an examination of the facts. The Senate is meant to be better than that. We are all going to have different opinions on issues, but we should be able to base our debates on facts rather than on emotion and falsehoods.

The amendment being proposed by Senator Carr on behalf of Labor is about schedule 2 of the bill. Schedule 2 of the bill deals with the more-likely-than-not threshold for complementary protection. Labor’s concerns about this contain an element of: ‘Do as I say not as I do’. The more-likely-than-not threshold was initially adopted by the former Labor government when the complementary protection provisions were first introduced into the Migration Act in March 2012. But this was more a statement of intent; it was not included in legislation. Labor’s position is, however, undeniable—although others may attempt to so deny it in their contributions to this debate—because the Department of Immigration and Border
Protection has confirmed that, between 24 March 2012 and the full Federal Court decision on 20 March 2013, the Labor government applied the more-likely-than-not test to complementary protection applicants. Labor even argued in the Federal Court that 'more likely than not' was the proper threshold, but they were unsuccessful. So the government is not, through this bill, raising the threshold; it is merely returning it to the level that was set by the then Labor government. I would therefore be surprised, and I am sure the Australian people would be surprised—I should say 'disappointed' rather than 'surprised'—if Labor in opposition were to decide to oppose something that they thought worth arguing for in the Federal Court and which was actually the test they applied over those nearly 12 months.

As I mentioned, the government has listened to the Senator Legal and Constitutional Affairs Legislation Committee and will be moving amendments sympathetic to the committee's recommendations. I think this is an example of how well the Senate can work. There is no monopoly on good ideas. Sometimes when a bill goes through the lower house it is not fully considered. Senator Macdonald made the point that it has been many months—I think it was June last year—since this bill has been considered. It has been with the parliament or a Senate committee now for nine months. That is why it is now time to fix this—to more fully and rigorously apply Australia's migration legislation to ensure that our migration program retains its proud place in the world. I think that it is a very proud thing for us. As a country we have a great history of migration, but it has worked because appropriate processes have been followed. People apply to come to our country, and they go through an appropriate process; where they are seeking refuge, that is an appropriate process as well. Where people are waiting in United Nations camps for placement in other countries, which Australia has signed up to, that is the appropriate place for people to be assessed and then allocated to a country.

People who say that there is no queue should go to some of these United Nations refugee camps—in Sudan, Indonesia and elsewhere—and have a look at the thousands and thousands of people who are trying to do the right thing, who say, 'I am seeking asylum,' and who go through the process and wait for an appropriate place to open up. It is not just about coming to Australia; it is about going to other countries around the world that have humanitarian refugee intakes. These people are not country-shopping and they are not looking for the best deal for themselves; they are looking for a deal. That, I think, says lots about their integrity and the strength of their character compared to those who simply can afford to pay their way via an illegal people smuggler.

I read the other day that these illegal people smugglers are now in the business of smuggling jihadis out of Australia and into Syria and Iraq. They are not fussed about where they get their business from. They do not care who is on their boats. It is all about the money for them. The Greens do not care who is on the people smugglers' boats. They do not care who comes into this country. They do not care about the integrity of our migration system. They do not care about Australia. It is the only conclusion one can draw. They do not care. They care about some sort of political advantage for themselves. (Time expired)

Senator BACK (Western Australia) (12:16): I rise in support of the Migration Amendment (Protection and Other Measures) Bill 2014. I start with a quote from then Prime Minister John Howard in a speech delivered on 28 October 2001:
National security is … about a proper response to terrorism. It's also about having a far sighted strong well thought out defence policy. It is also about having an uncompromising view about the fundamental right of this country to protect its borders, it's about this nation saying to the world we are a generous open hearted people taking more refugees on a per capita basis than any nation except Canada, we have a proud record of welcoming people from 140 different nations.

He went on to make the statement:

We will decide who comes to this country and the circumstances in which they come. And can I say on this point what a fantastic job Philip Ruddock has done for Australia.

Today, of course, that is strongly endorsed. He went on to contrast some comments of the then Leader of the Opposition, who indicated to him that the last thing that the opposition leader or Australia wanted was a negative, carping opposition on this particular matter. Of course, soon afterwards that is exactly what the then Leader of the Opposition went on to do when he led voting against the Border Protection Bill. He subsequently reversed this position and voted in favour of the bill. What is interesting and what brings us to where we are today is that Mr Howard said of the Leader of the Opposition in that speech:

… while the debate was going on in the Senate many of his colleagues were darkly muttering if we win the election we'll change it.

It took another six years after October 2001, but of course that is exactly what happened. That is why we have ended up in the circumstance in which we find ourselves today.

What is it that the Australian community expect of us as law-makers? I think it is very interesting and necessary to reflect on this as senators in this debate. I think Mr Howard put it eloquently—and I have not heard too many disagree with him—that deciding who comes to our country and protecting our borders must be a very, very high priority for government. Deciding who comes and who stays is an important priority accepted by the wider community. Providing for genuine refugees and avoiding queue-jumping—a point to which I will return—and providing security for Australian citizens, Australian residents and visitors to this country have always been a high priority, but the events of the last few months have further emphasised that fact. The unfortunate necessity of having heightened levels of security in and around this building now points to that fact. For those who think that that is an overreaction, one need only go back to the shocking events in the parliament in Ottawa, Canada late last year.

The previous speaker, Senator Bernardi, spoke eloquently about stopping the people-smuggling trade. It is an evil, vindictive, rotten trade, which was stopped. There is a need to treat people fairly and to differentiate between those who are, I would say, economic opportunists and those who are genuinely at risk. We need to minimise the risk of loss of life at sea, especially of children, including those who are unaccompanied—and I will return to that also.

Assimilating genuine applicants into Australia's society is another need. We are a nation built on the efforts of migrants. We need efficient processing as quickly as is possible so that those who are found to actually be genuine refugees eligible to come into this country can be assimilated into our community, can get jobs and can make that contribution that they want to make and that many, many migrants over the generations have made before them. We need to weed out those who are here illegally for whatever reason and by whatever mechanism they have got here. We need to ensure fairness towards our own citizens, our own older citizens,
our homeless citizens and residents. We need to make sure that there are adequate services, housing and employment for our own as well as those coming to the country, and, of course, encourage people to work in our rural and regional areas, to which I will refer later in this contribution.

It is necessary to have people understand the scale of the challenge. I will provide some statistics. From 18 September 2013 to 17 September 2014—the first year of the Abbott led coalition government—there were 23 ventures involving illegal maritime arrivals, totalling 1,265 people. In the 12-month period from September 2012 to September 2013, there were 401 ventures, involving 26,543 people. That is from 23 up to 401, and 1,255 as opposed to 26,543. Since December 2013 there has been one people-smuggling venture, carrying 157 people, who—under the coalition’s policy as stated leading up to the election—were transferred to an offshore facility.

The longest period without a successful people-smuggling venture under the previous government—after such ventures were stopped under Mr Howard—was 61 days, when Senator Chris Evans was minister for immigration. That reduced from 61 to 23 when Mr Bowen became the minister for immigration. Then it became a revolving door, and the longest period of time between arrivals with Ministers O’Connor and Burke was six days, after a period under the Howard government in which this rotten trade of people smuggling had been weakened and stopped.

It is the inevitable conclusion, with those statistics, that the policy established by Howard, with Ruddock as his minister, had been successful. Mr Howard, in a speech of October 2001, said that many in the Labor Party in the Senate were darkly muttering, ‘If we win the election, we’ll change it,’ and indeed they did. We then ended up with a circumstance where more than 50,000 people arrived illegally on more than 800 boats. So we went from two people a month under the Howard government to 3,000 a month under the Rudd, Gillard and Rudd governments. And the number of people in detention or on bridging visas increased from a total of four in 2007 to more than 30,000. We know that 1,200 perished at sea. Senator McEwen—who is in the chamber—and I were participants in an Operation Sovereign Borders exercise in Darwin, out of the Larrakeyah Barracks, last year. We were speaking to Naval personnel who were involved in that process, and they were certainly of the view that, regrettably, there were more than that 1,200 who perished.

What was the cost of that whole exercise? The budget advertised over that time increased by $11.6 billion, under the then Labor government. When it comes to children—because they are particularly relevant to this discussion—more than 8,000 children had their lives put at risk by making this journey. Of course, some people would be so desperate that they would want to send their children unaccompanied. We can all understand, as parents, how desperate a decision that must be, but we can also understand how much greater risk would apply to those children.

That is where we found ourselves in advance of this legislation. I recall in Senate estimates in 2010 asking the then immigration secretary how many people were arriving by air as opposed to by sea and how many people coming into Australia by air could arrive without either a passport or necessary documentation. The answer of course is—successfully—nil, because you cannot get through the airport if you do not have the necessary documentation processed to allow you to come, for whatever purpose you come. I then said to him, ‘How
many are arriving by sea without adequate documentation?' He said, 'The majority.' I said, 'How is that happening?' He said, 'They either lose their passports or they have them taken off them by bullies or indeed they never had them in the first place.' I remember saying to him, 'Secretary, those people have a problem, don't they?' He looked at me and he said, 'No, Senator Back; they haven't got a problem.' I said, 'Well, who's got the problem then?'—because many of us who travel overseas know that, if you try to get into another country without a passport or the necessary documentation, you certainly have got a problem and you stay there until such time as you either rectify it or you are deported. He said, 'They haven't got the problem. We have got the problem.' I asked him further, 'If we've got the problem, why is it our problem?' He said, 'That's how the whole thing is structured under the government processes at the moment.' So there lies the issue. I said, 'What happens to these passports?' He said, 'They either get destroyed or they get sent back to the country of origin for somebody else to use the passport to attempt to get into this country.'

So where do we find ourselves? We find ourselves in a circumstance where genuine refugees—those about whom Mr Howard spoke when he said that we are, behind Canada, on a per capita basis the second most generous country for accepting refugees—continue to rot in asylum camps. Second generations, even up to third generations, do not get here because the numbers that we set are such that, as others jump the queue, they continue to wait. As I have said in this place before, it was put to me in Perth by a young Sri Lankan gentleman that there is a raging trade going on in the refugee camps, where a family might never know that they get near the top of the queue to actually come to this country, because somebody might come and pay the management of that refugee camp so that they replace the family that were near the top, and that family subsequently do not get here. That is what we had to stop and that is what this coalition government did stop. We came into government saying we would stop the evil trade of people smuggling. It took a little while. It took some effort on the part of Scott Morrison, and the process he put into place, but it has been successful. We now do not see these young people being put at risk, coming here in leaky boats in cyclone seasons such as the one we are experiencing off the north-west coast and, indeed, the southern coast of WA at the moment. We are not seeing that. That, surely, is something the Australian community must be very well pleased with and proud of: that we have stopped the process of people-smuggling from overseas to Australia.

What are we looking at with this protection and other measures bill? As has been previously said, it was in the last sitting period of 2014 that the Migration and Maritime Powers Legislation Amendment (Resolving the Asylum Legacy Caseload) Act was passed. In fact, it was on the last sitting day. It created temporary protection visas. It got children out of detention on Christmas Island—which the assistant minister, Minister Cash, had promised would happen in this place. And, of course, it introduced a fast-track system. The coalition is appreciative of the support of the then Palmer United Party—in fact, Senator Wang is still a member of the Palmer United Party—and of senators Day, Leyonhjelm, Muir and Xenophon. It was interesting to hear Senator Muir’s comments, in his first speech the other day, reflecting on the time it took him into lend support to that. But he can be well satisfied that those children have been removed from Christmas Island; and I look forward to going to Christmas Island in early April to see for myself what the circumstances are in that place.
We know that this particular bill, the migration amendment bill, will seek to amend the Migration Act 1958 to further increase and enhance the efficiency and the effectiveness of onshore refugee and complementary protection. This is what the Australian community wants us to do. They want us to make sure that we have efficient, effective and cost-effective processes in place so that we can determine these matters quickly, having regard for the inevitable stress these people find themselves under. It is going to clarify the responsibilities of asylum seekers to provide and substantiate claims in relation to their visas.

The Australian community wants the government to act fairly. It wants the government to ensure that those people who are applying for protection and for visas have genuine documentation—that they do not go out there and corruptly obtain false documentation or create stories which are, in fact, not truthful. We want to be able to help those who are genuine—and we want to be able to send a strong message to those who are not that this country will not entertain or welcome that sort of activity. We want to make sure that claims that are made and evidence that is produced is valid and that it is produced at the first opportunity, not in some rotating and ongoing process.

It will create grounds to refuse a protection visa application when the applicant refuses or fails to establish their identity, their nationality or their citizenship, having regard for any contingencies in which they may have a case to present as to why they cannot produce that documentation. This is the way Australia and Australians act, and it is the way that the community wants our government to act. The fast-track application process established by the legislation passed on the last sitting day is dependent on removal of some of the statutory bars that find their way into this legislation. I will not dwell on the 'more likely than not' threshold because I know it is to become the subject of discussion, possibly with amendments to be moved.

I want to conclude my remarks, if I may, by referring to the establishment of the safe haven enterprise visas, which were introduced in the legislation that was passed in this place on the last sitting day of December 2014. In my view this is absolutely groundbreaking and fundamental. To remind my colleagues, and to inform those who are not aware of it, what it does is it rewards enterprise and enhances the strong regional needs, demands and desires of regional Australia with a new visa to be created called the safe haven enterprise visa. In essence, what this does is encourage somebody who is seeking protection in this country to work in regional or rural Australia with their family. It is a tremendous opportunity. We know very well that migrants in the past have found lives and opportunities in rural and regional Australia. Both my grandparents on the maternal side were Irish migrants—Irish farmers—and they started an Irish farming and agricultural dynasty. What is interesting about these SHEVs is that they will be an alternative temporary visa to the temporary protection visa. They will encourage people to live and work in rural and regional Australia and indeed, if they remain working in rural or regional Australia for a four-year period, they will then, as I understand it, be eligible to apply for a more permanent arrangement. One would think this is well and truly worth supporting, and I therefore urge my Senate colleagues to support the Migration Amendment (Protection and Other Measures) Bill 2014.

Senator SESELJA (Australian Capital Territory) (12:37): It is my pleasure to rise in support of the Migration Amendment (Protection and Other Measures) Bill 2014 today. I thank Senator Back and other senators for their contributions to this debate. Before I go into
the detail of this bill and the necessity of this bill being passed, I want to go into the context in which this debate exists in this country, and that includes the shocking mess that we have inherited, the absolute disastrous humanitarian outcomes of previous policies implemented by the Labor government, supported by the Greens—and talk about some of the dangers that still exist in what some in the Labor Party before the last election were claiming was a consensus. Unfortunately, that was not the case.

Firstly, I will go to the context and the success of the policy that we have implemented. The border protection policy that the coalition government implemented has led to a dramatic change in the way that border protection occurs in this country. It was only a couple of years ago that we had a situation where it was out of control, where the Australian government no longer actually controlled the number of people who were coming to this country nor the circumstances in which they were coming. The former government had completely lost control, leading to 50,000 unlawful arrivals.

Just a couple of years ago we had 50,000 unlawful arrivals, over 1,000 deaths at sea and around 2,000 children in detention. Cast forward, and, in a relatively short space of time, we have seen virtually no arrivals and we have seen the boats over the last 12 months basically stop. There have been no deaths at sea that we are aware of. When it comes to children in detention, we have gone from the high of around 2,000 children in detention under Labor and many thousands going through detention to under 120 as it stands.

I think that should be a cause for success, for congratulations of a policy that has been well implemented and where the outcomes that we promised are for the good of all Australians, for the good of an orderly migration program, for the good of asylum seekers who are no longer being lured to their deaths, for the good of children who have been released from detention, for the good of our budget and of course for the good of those who are languishing overseas camps, who previously were being denied the opportunity to be given asylum by those who had greater means than those in the camps—those who had the money to pay people smugglers. That is a dramatic change and it has all been done with no assistance whatsoever from the Labor Party or from the Greens. That is a record that I am proud of and that is a record that all Australians should be proud of both from an orderly migration point of view but also, importantly, from a humanitarian point of view—we would never want to go back.

I have touched on the Labor-Greens record. In fact confusion that still exists when it comes to the Labor Party's policy and some aspects of this bill that the Labor Party is not supporting. It seemed that the Labor Party, when in government, right at the end, having completely lost control of this issue, in the lead-up to the election and as a last-gasp pitch to voters tried to claim that it had learnt and that it was now going to implement sensible policies that would actually stop the flow of asylum seeker boats, stop the deaths at sea. That was certainly the message that we heard from Bob Carr. That was the message we heard subsequent to the election from Richard Marles, but I will go to Richard Marles in a minute.

The ACTING DEPUTY PRESIDENT (Senator O'Neill): Order! Please refer to your colleagues here in the federal parliament by their correct title.

Senator SESELJA: Indeed. We have had a significant shift. Former Senator Carr moved on from his party subsequent to the election. The then foreign minister claimed in an article in *The Australian* on 6 July 2013 that Australia needed to toughen the way it assesses refugee applications because too many asylum seekers, especially those from Iran, are economic
migrants rather than genuine refugees. Of course this triggered howls of protest from some refugee advocates, lawyers and academics:

Carr's claims are part of a multi-pronged push by the new Rudd government to redefine the asylum-seeker debate and soften the potential political damage from what is arguably Labor's greatest policy failure.

There is no doubt that while there were many policy failures this has to be the most significant. The article said that Labor was seeking to move the goal posts by targeting the actual system that determines whether they are genuine refugees. Minister Carr went on:

The government believes this high 90 per cent acceptance rate reflects a lax and over-generous assessment process.

Senator Carr, at the time, said:

There is some evidence that the tribunals have not been hard-headed enough.

Senator Carr formed a judgement back then that in fact things needed to change. So in the lead up to the election, there was a recognition from aspects of the Labor Party that they had got it horribly wrong and now they needed to change the policy. Senator Carr was right on that point. He went on:

I absolutely stand by it because I've seen the data from some of the boats, and on some of the boats it's clear that 100 per cent are motivated by economic factors and are not fleeing persecution.

He went on:

The fact is, these people are middle-class Iranians. They're leaving their country because of the economic pressure.

He goes on—and this is the point where I differ with Senator Carr. This might have been a nice line before the election but what we have seen subsequent to the election clearly belies this point:

Senator Carr said there was now a "consensus" in Australian politics on this issue "because you can't ignore the evidence. Unfortunately, that is not the case. It is not the case. What we have seen subsequent to the election is, in fact, the Labor Party seeking to undermine our efforts to actually get this issue under control.

Even in recent days, of course—just yesterday—we heard from Tanya Plibersek, effectively criticising the policy of turning back boats, whereas Richard Marles, in the realistic part of the Labor Party, acknowledged that turn-backs were making a contribution and that turn-backs were a part of the successful efforts of the coalition government to stop boats from arriving illegally, to stop deaths at sea and to get this issue under control. Richard Marles, of course, was very quickly shot down by Bill Shorten on this issue. He was very quickly shot down by his own party.

This internal angst from the Labor Party has serious policy consequences, because we see this angst play out from time to time; in the lead up to an election, the Labor Party talks tough on border production. Kevin Rudd did it in 2007. He said he would even employ tow-backs to turn back the boats. He got in and of course caused a flood of 50,000 people, luring many to their deaths and seeing detention centres fill up—in many cases with thousands of children. That was the effect of that policy and this policy angst, which we are seeing again as we see the Labor Party's position on this bill.
I want to talk in some detail about the bill itself. The bill makes a number of amendments to the Migration Act 1958 that will increase efficiency and enhance integrity on the onshore refugee and complementary protection status determination process. These amendments include clarification of the responsibilities of asylum seekers to provide and substantiate claims in relation to protection visas. It establishes that if asylum seekers do not cooperate with the government to establish their identity, they will not be given the benefit of a protection visa. It enables the Refugee Review Tribunal to draw an unfavourable inference about the credibility of claims or evidence that are raised by a protection visa applicant for the first time at the review stage. It also creates grounds to refuse a protection visa application when an applicant refuses or fails to establish their identity, nationality or citizenship. Finally, these amendments also restore the more-likely-than-not threshold for complementary protection, whereby applicants who are found not to be a refugee may nevertheless be a person to whom Australia has protection obligations on complementary protection grounds.

These measures make it clear that Australia expects protection visa applications to be made in good faith, and that presenting false or forged documents for the purpose of establishing identity will result in refusal of a protection visa application unless the applicant has a reasonable explanation. These amendments send a clear message that applicants for asylum have certain responsibilities to ensure that those who are attempting to manipulate the system do not take the places of those genuinely in need of asylum. I note also that these measures apply to all asylum seekers, regardless of the way they arrive in Australia.

These are necessary measures to ensure the public can have continued confidence in the government's management of the borders and also to meet the community's expectation that asylum claims are made in good faith. They will also assist the government as we continue to deal with the legacy caseload left by the previous government's mismanagement of the borders.

I also note that this bill is consistent with Australia's international obligations under the refugees convention, the International Covenant on Civil and Political Rights and the United Nations Convention Against Torture. The statement of compatibility with human rights which accompanies the bill addresses relevant human rights issues for each measure.

The sad reality is that there are people out there who take advantage of the system and attempt to get into Australia by making false claims. Former Senator Bob Carr is just one of the voices on this topic who has acknowledged that in fact that is exactly what happens. Establishing an applicant's identity is vital for making a decision to grant or refuse a visa. An individual's identity, nationality or citizenship can have a direct bearing on whether they engage Australia's protection obligations. The bill encourages applicants to provide documentary evidence of identity, nationality or citizenship wherever possible. This is a measure that is broadly in line with amendments made to similar legislation in the United States, in the UK and in New Zealand, and this is appropriate to the central role that establishing identity, nationality or citizenship plays in granting a protection visa.

Establishing identity allows accurate assessment of a person's protection claims, particularly in a time of increased dual and multiple nationalities. The measures also help safeguard the Australian community from people who have committed serious crimes. I think that the Australian people would expect nothing less—absolutely nothing less—that we as a parliament and we as a government would do all that we can to establish identity in these
cases. Even if you make the argument that most who are coming have a genuine claim—and Bob Carr did not agree with that in many cases—we know there will be a significant number of exceptions, and that if we do not get our processes right there will be some unsavoury people who slip through the net. So I think the Australian people would absolutely expect that we would make sure we get this right.

Under existing legislation, the person making the decision on protection may request that an applicant provide documentary evidence of identity, nationality and citizenship. However, when a request for documentary evidence of identity, nationality or citizenship is made, the applicant will now be warned that the decision maker must refuse to grant the protection visa if the applicant refuses or fails to comply with the request, or produces a bogus document in response to the request. However, the refusal power will not be engaged if the decision maker is satisfied that the applicant has a reasonable explanation for refusing, failing to comply or producing bogus documents, and either produces the documentary evidence requested or has taken all reasonable steps to do so.

This bill changes the process so that it is no longer request-based and relates to situations where an applicant has given false or forged documents of their own accord or destroyed evidence of identity, nationality or citizenship. It should be noted that there remains in place 'reasonable explanation' and 'reasonable steps' provisions that allow for the reality that, on occasion, there are exceptional circumstances which may prevent an applicant from providing documentary evidence of identity. Decisions makers must act in good faith and take applications on a case-by-case basis. If a reasonable explanation is given for an absence of identifying documentation and this explanation is consistent with the known facts of an applicant's claimed country of origin, then decision makers have some discretion in this area. Likewise, if decision makers are satisfied that reasonable steps have been taken to acquire identifying documents but the applicant is unsuccessful, discretion can also be applied. It is reasonable for the Australian community to expect that those seeking asylum are who they say they are. This measure will ensure this is the case.

I note that this measure is consistent with our international obligations—indeed, the UNHCR Handbook, on page 40, paragraph 205, states that the applicant is to supply all relevant information in as much detail as necessary for relevant facts to be established. It states that the applicant should:

Make an effort to support his statements by any available evidence and give a satisfactory explanation for any lack of evidence. If necessary he must make an effort to procure additional evidence.

At the moment, those who are not genuine asylum seekers can exploit the independent merits review process by presenting new claims or evidence to bolster their original unsuccessful claims after they learn why they were not successful. This causes significant processing delays for those genuine applicants who need our protection. The new amendment regarding new claims and evidence for asylum also makes clear that the government expects asylum seekers to present all evidence for their claim at the appropriate time.

In the time I have left I want to talk about the 'more likely than not' provisions. The 'more likely than not' threshold applies to Australia's complementary protection obligations. Complementary protection is a term that describes a possible visa pathway for a category of people who, whilst not meeting the refugee convention definition, are nonetheless in need of
protection on the basis that they face serious violations of their human rights if sent back to their receiving country. The 'more likely than not' threshold is an acceptable position open to Australia under international law and is consistent with the thresholds adopted by other like-minded countries, such as United States and Canada.

This part of the bill has been opposed by Labor, even though this is a policy that was adopted by Labor in 2012. This is part of that consensus that former Senator Carr was talking about. In 2012, and in 2013 in the lead-up to the election, apparently there was consensus. But now we see that in opposition they will oppose any good policy that might actually help to fix this issue.

_Senator Hanson-Young interjecting_—

_Senator SESELJA:_ For Senator Hanson-Young's benefit, I will go through some of it. While the complementary protection provisions were first introduced in the Migration Act in March 2012, the 'more likely than not' threshold was stated in Labor's policy rather than Labor's legislation.

_Senator Hanson-Young:_ You opposed complementary protection.

_Senator SESELJA:_ The Department of Immigration and Border Protection has confirmed that between March 2012 and March 2013, the Labor government applied the 'more likely than not' test to complementary visa applicants.

_Senator Hanson-Young:_ You don't know what you are talking about.

_Senator SESELJA:_ Labor even argued that this was the appropriate threshold in the Federal Court. This threshold is not being raised in any way; it is—

_Senator Hanson-Young:_ The coalition never—

_Senator SESELJA:_ simply being returned to the level set by Labor when they were in government.

_Senator Hanson-Young:_ You don't give a damn.

_Senator SESELJA:_ Senator Hanson-Young interjects for a range of reasons, but let's be clear on a couple of things. She should be embarrassed about her party's position—

_Senator Hanson-Young:_ 'She?' 'She' is the cat's mother. Why don't you call me a woman and tell me to shut up? Go on.

_The ACTING DEPUTY PRESIDENT:_ Senator Seselja, you were doing very well ignoring the interjections. Please continue your remarks through the chair.

_Senator SESELJA:_ The Greens should absolutely be embarrassed about their position in this area of policy. They have assisted the Labor Party in taking this nation down a path where we completely lost control of our borders, where over 1,000 people drowned on the lure of getting here and where we had thousands of kids locked up. That was the legacy of a Labor-Greens policy. I would say to the Labor Party in their internal angst: do not listen to the Greens' advice; do not listen to the advice of the far left of the Labor Party; look at what works and look at what is humanitarian—(Time expired)

_Senator CANAVAN_ (Queensland) (12:57): I also rise to speak on the Migration Amendment (Protection and Other Measures) Bill 2014. This legislation is quite technical and procedural, but it is important because it provides the legislative foundations to support this
government's response to the very difficult challenge of asylum seekers. And it is a difficult challenge. There are no easy choices in this debate. I spoke on the bill that was passed just before we rose for Christmas last year as well. It is a difficult issue. We do want to provide protection to those that need it for political reasons. But of course we cannot take everybody and as soon as you have a gate that is open some people will choose to come to this country for reasons other than political protection and we need to have protections in place to ensure that the limited number of refugee visas that we can allocate each year actually go to people seeking political asylum.

I note that Senator Hanson-Young is contributing to this debate—even when she is not on her feet. She also said this morning that this bill puts at risk Australia's ability to meet its international obligations. This is not the case and I will cover that later. I also note that during this debate there have been some claims about torture based on a UN report released last week, which I think has been discredited. The UN's special rapporteur on torture Juan Mendez issued a report last week that claimed Australia is violating the rights of asylum seekers under the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. The report failed to bother collecting evidence to support the claims of torture.

We heard those on the other side of the chamber compare Australia's system to Nazi Germany, which I think is disgraceful and completely out of order. Many fine words were also spoken about the need for humane treatment of asylum seekers. I support this sentiment 100 per cent, but sentiment is not enough. History has shown that we should take what the other side of the chamber says on these matters with a grain of salt. On Thursday last week, it was reported in the *The Australian* that refugee boat activists were quieter under the ALP but are very loud now that there is a different government in charge. That article said:

CELEBRATED human rights lawyer Julian Burnside believes some refugee advocates went easier on Labor than they should have despite crowded, self-harming and difficult conditions for more than 1000 children in the lead-up to the 2013 federal election.

Mr Burnside said:

"I suspect that a number of advocates were a bit quiet when Labor was in because at least Labor were making the right noises … They ended up doing the wrong thing."

I think what we have heard this morning is a classic case of this phenomenon: some in this debate like making the right noises without much regard for the actual impact and outcomes of their decisions.

The families of those who lost their lives at sea do not want us focusing on sentiment; they want us focusing on the issue. The many thousands of children and families who were locked up under previous policies want us to focus on the issue, not sentiment. Many people were defrauded and came here in the false belief that they could achieve freedom and perhaps Australian citizenship, but they were sold lies. They were sold lies by disreputable people who sought to profit from the trade in people. I am proud that this government, through the policies it has implemented, has been able to put a stop to that trade. I am prepared to support a government that is getting behind concrete actions that help keep in place the policies that have stopped drownings at sea and have slashed the number of children in detention by 90 per cent from the peak under the previous Labor government, and that number is continuing to fall.
This bill will continue to help implement those policies. As I said at the start, it is a technical bill that seeks to close some of the loopholes that exist in our regime. The bill seeks to amend the Migration Act 1958 to strengthen the efficiency and integrity of the process by which Australia determines the protection status of onshore refugees.

On the final sitting day last year, we here in the Senate passed the Migration and Maritime Powers Legislation Amendment (Resolving the Asylum Legacy Caseload) Bill 2014. I have only been here for about eight months, but I know it was a very important piece of legislation. I know that it took a fair amount of negotiation and caused a fair amount of heartache, particularly for members of the crossbench. The bill was passed with the support of the Palmer United Party and Senators Day, Leyonhjelm, Muir and Xenophon. That side of the chamber decided to do something instead of just seeming to do something. It was a difficult decision for them—I have no doubt about that—but it was the right one and it has contributed to policies which have helped to stop the trade in people across our borders. The bill the government passed last year with their help re-established temporary protection visas, and it had the effect of getting children out of detention on Christmas Island because it fast-tracked a system to do so.

The bill before us is needed to make the legislation we passed last year work as it should. It makes a number of amendments to enhance the efficiency and integrity of our onshore protection visa and refugee status program. It clarifies the responsibility of asylum seekers to provide identity documentation to substantiate claims in relation to protection visas. If asylum seekers do not cooperate with the government to establish their identity, they will not be given the benefit of a protection visa. This is in line with amendments to legislation in the United States, the United Kingdom and New Zealand. It will remove a loophole in the process that currently allows non-genuine asylum seekers to exploit the independent merit review process. Potential asylum seekers can, at times, game the process to present claims of new evidence or claims to bolster their original claims after they learn they were unsuccessful. This causes significant processing delays for other, genuine applicants.

The bill will also create the grounds to refuse a protection visa application when an applicant refuses or fails to establish their identity, nationality or citizenship. Establishing an applicant's identity is vital to making a decision to grant or refuse a visa. An individual's identity, nationality or citizenship can have a direct bearing on whether they engage Australia's protection obligations. These provisions are important for that reason.

It is in the interests of all Australians and all genuine asylum seekers to discourage the use of bogus identity documents and to discourage the destruction or discarding of documentary evidence of identity, nationality or citizenship by or on behalf of people seeking protection in Australia. Establishing identity is vital to the integrity of any immigration system, for obvious reasons. It allows accurate assessment of a person's protection claims, particularly in a time of increased dual and multiple citizenship. The measures also help safeguard the Australian community from people who have committed serious crimes. Just to be clear, this bill is not about forcing people to come up with documents that do not exist; what it does is make it clear that protection visa applications must be made in good faith. So, unless the applicant has a reasonable explanation for presenting bogus documents, their protection visa application will be rejected.
It is important to note, however, that the refusal power will not be engaged if the decision maker is satisfied that the applicant has a reasonable explanation for refusing or failing to comply or for producing documents which prove untrue, if they either produce the documentary evidence requested or have taken all reasonable steps to do so. I think it is reasonable that we ask people who are seeking to come to our country—to live under the protections, privileges and responsibilities that we all have as Australian citizens—to take reasonable steps to establish their claim. We of course understand that, in the difficult circumstances in which some people come to this country, they may not have all the documentation you would expect of most migrants. But it seems to me that it is a reasonable thing for our parliament to ask people to take reasonable steps to establish their identity to prove the claims that they are making. Therefore, the definition of 'reasonable explanation' is very important to the detail of this bill, and I want to spend a bit of time explaining what a 'reasonable explanation' is under this legislation.

A reasonable explanation for the purposes of this legislation can include having had no reasonable opportunity to present the claim—for example, an interpreting or translating error was made in the primary stage of an application. It can include a change in the country situation affecting human rights after the primary decision was made, or new information relevant to the application that was not available earlier—for example, documentary evidence of their identity. It can include a change in personal circumstances allowing the presentation of new claims—for example, a new relationship, a new spouse, or a new child with a person who has protection claims in their own right. It can include being a survivor of torture and trauma where the ill treatment has affected the applicant's ability to recall or articulate protection claims. It can include the applicant being considered most vulnerable—for example, a minor, a mentally or physically disadvantaged person or someone who has a restricted ability to participate in the protection process. Those criteria seemed to me to be eminently reasonable, and they feed into a process which will require reasonable explanations for claims under our asylum seeker process.

In addition to these new protections, the bill also removes a number of statutory bars to implementing the government's fast-track process established in the legislation passed last year. Until we pass this legislation, the majority of the maritime arrival backlog—which is around 22,000 people at the moment, living in the community on bridging visas—will not fit the definition of a fast-track applicant and cannot be processed as such. As I said in my earlier remarks, the legislation passed last year has played a significant role in fast-tracking the backlog of maritime arrivals who are claiming asylum. These are people living in circumstances which I think we all recognise are not ideal. We prefer to process their applications as soon as possible, but we simply cannot with so many people and also with so many avenues for appeals and disputes to emerge which hold up the process for everyone, including those who probably have genuine and applicable asylum claims.

The bill contains a number of other safeguards and protections to ensure procedural fairness to protection visa applicants. Of course, decision makers must act themselves in good faith—just as the applicants must—fully assess protection visa applications and afford procedural fairness to asylum seekers. Decision makers are also provided with guidance to be aware of the special needs of vulnerable applicants and to ensure that appropriate support and consideration is provided. For instance, the department's Procedures Advice Manual, Gender
Guidelines and Refugee Law Guidelines assist in assessing claims from vulnerable applicants, including women and applicants with an intellectual disability. Vulnerable applicants include unaccompanied minors, survivors of torture or trauma and applicants who are physically or mentally incapable of taking full responsibility for their claims. Under the requirements of the Migration Act, decision makers are required to act in good faith to fully assess protection visa applications and afford procedural fairness to asylum seekers. Vulnerable applicants will also receive help to present their claims. They have the right to seek privately arranged application assistance—as does, of course, any person who is claiming protection in Australia.

This bill also seeks, as Senator Seselja said earlier, to restore the 'more likely than not' threshold for complementary protection. There is no change in this bill to the threshold applied to the refugees convention. I note that the Labor Party at this stage have indicated that they will support other parts of the bill but not those in schedule 2. Those concern the 'more likely than not' threshold for complementary protection. As Senator Seselja pointed out, this is a little strange, although we are getting used to it. The Labor Party had a position in government; they have a different position in opposition. They seem to have had a change in principle about and attitude to the budget and migration legislation, and they cannot, in my view, always explain why.

In 2012, the Labor government introduced complementary protection provisions. They were inserted into the Migration Act in March 2012. The 'more likely than not' threshold was stated in their policy originally but was not followed through in legislation. So it was their policy in early 2012. It is now not their policy. I am not sure what their policy on border protection will be at the next election, but, if it is anything like their policy before the 2007 election and before the 2010 election, it will lead to weakening of our border protection laws, potentially opening the gate again to more arrivals, more difficulties for our processing of applications and more hold-ups for people who are actually genuine refugees around the world who are seeking to come to this country for protection.

There is also evidence that this was the Labor Party's policy, because the Department of Immigration and Border Protection confirmed that, between 24 March 2012 and the Federal Court decision on 20 March 2013, the Labor government applied the 'more likely than not' test to complementary provision applications. So, even though it was not in the legislation, it was a test that was applied in practice by the then Labor government. Labor even argued in the Federal Court that the proper threshold was 'more likely than not', but this was unsuccessful.

This legislation does not raise the threshold. It does not change the threshold that was applied. It simply seeks to clarify in legislation, to codify, a test that was being applied in a policy sense but that the court ruled was not applicable. It is the court's right to do that, but of course this is a matter where we as a parliament can resolve that, no, we would like to look at these things in a different way, and we would like to apply a 'more likely than not' test. That would not provide for the kinds of court decisions we saw in 2013.

I said earlier that there have been claims made that this 'more likely than not' threshold is not consistent with our international obligations, but it is an absolutely acceptable position under those obligations, and it is consistent with the thresholds that are adopted by other countries similar to ours in terms of human rights and our record, such as the United States and Canada. Specifically, the 'more likely than not'—sometimes called the 'more probable
than not—threshold is reflected in the views of the UN Human Rights Committee in its General Comment No. 31 and the United Nations Committee against Torture in its comment No. 1 as to when a non-refoulement obligation will arise:

... the risk ... must be assessed on grounds that go beyond mere theory or suspicion. However, the risk does not have to meet the test of being highly probable.

So it seems to me that there is quite a bit of evidence there that it is consistent with our international obligations and that, by passing this specific piece of legislation, we will simply be re-establishing the test that was applied in some years of the Labor government. It does not seem to me an overly controversial change, and I have not seen any reason why we should change from that process.

But this is not unusual, because the Labor Party and the Greens have, unfortunately, blocked or not supported almost any of the changes that we have tried to make to fix the crisis they created. It was during their time in government that we had almost, or maybe even a little bit above, 50,000 arrivals to this country of people seeking asylum. Because of that, we ended up with 30,000 of them with their applications unprocessed when the coalition came to government. We had almost 2,000 children in detention at the peak during the Rudd Labor government, and when the 2013 election was called we had 1,743 children in detention. In 2007, there were zero children in detention when the Labor government came to power, and we would like to get back there, because I do not want to see kids in detention if we do not have to. I want to make sure we have a system which processes people's refugee claims as quickly and as humanely as possible, but we cannot do that unless we have a system which deters people from trying to abuse the system. If we have a system that people can easily abuse and take advantage of, there will be no avoiding processing backlogs and therefore, under the detention policies that both major parties support, a lot of people, including children, having to remain in detention.

It is a very good outcome that today we have fewer than 120 children in detention, and hopefully that can be reduced to zero over the next year or so. This bill that we are passing today, or that we hope to pass today, would help achieve that, because it will free up our application process, it will make sure that people have to act in good faith when they make a claim, and it will reduce the delays that currently beset the processing of applicants for asylum in this country.

Senator MUIR (Victoria) (13:17): I rise to make a short contribution to the debate on the Migration Amendment (Protection and Other Measures) Bill 2014. I note the concerns raised by a variety of stakeholders in relation to this bill, and I thank those who have made contact with my office. Their views have been extremely helpful for me in reaching a position on this bill.

As we have already heard during this debate, this bill has four schedules. Schedule 1 of the bill contains amendments which contribute to the integrity and improve the efficiency of the onshore protection status determination process. The measures clarify the responsibility of asylum seekers and encourage complete information to be provided up-front. The measures apply to all asylum seekers regardless of their mode of arrival. Schedule 2 of the bill contains amendments relating to clarifying the threshold for Australia's non-refoulement obligations under the International Covenant on Civil and Political Rights and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. Schedule 3 of the
bill contains amendments relating to making a valid application for a visa, and schedule 4 contains amendments relating to the Migration Review Tribunal and Refugee Review Tribunal.

I am pleased that Labor has moved amendments to schedule 1; however, I have concerns that, due to the removal of legal assistance and the shifting of the refugee status determination process from an inquisitorial process to an adversarial one, there is a real chance that genuine refugees may be sent back to their home countries, where they face persecution or harm.

I support schedules 3 and 4, but I cannot support schedule 2. Schedule 2 introduces a higher risk threshold for assessing Australia's protection obligations in respect of non-citizens under the International Covenant on Civil and Political Rights and the convention against torture. The purpose of this amendment is to restore the risk threshold for complementary protection to the higher threshold that was intended when the complementary protection framework was inserted into the act in 2012. I note that the explanatory memorandum was amended to clarify the operation of the new test, but what really matters here is that the threshold is changing. This change arguably brings a greater chance that people could be returned to persecution or serious harm. Is this increased chance something I want resting on my shoulders? As stated by Mr David Manne during the Legal and Constitutional Affairs Committee hearing:

… the proposed 'more likely than not' test would ultimately significantly increase the risk of Australia making the wrong decision on whether or not somebody should be protected from serious harm. The test raises the real prospect of returning people to persecution or other forms of life-threatening harm, in violation of our non-refoulement obligations. That is the bottom line here.

Last Thursday I attended an event hosted by Maurice Blackburn to celebrate the release of Australian-born asylum seekers and their families from detention. I met with the children and families that I helped prevent from being deported to Nauru. It was an emotional night and one that I will treasure forever. I cannot, in good conscience, support a change that raises a real prospect of returning children and families, such as those that I met last Thursday, to persecution or other forms of life-threatening harm.

There are aspects of this bill that I support, along with the Labor Party. I will be supporting Labor's amendments to remove schedule 2 and I look forward to listening to the debate continue at the committee stage. Thank you.

Senator McGrath (Queensland) (13:20): It gives me pleasure to speak on the Migration Amendment (Protection and Other Measures) Bill 2014. The coalition went to the last election with a promise to build a safe and secure Australia. A key part of this—
election promising to get rid of the carbon tax; we got rid of the carbon tax. We promised to get rid of the mining tax and we promised to get the budget under control. That is what we are doing at the moment except for the rambunctious behaviour of the Labor Party and their rather quirky approach to good fiscal and economic management.

Senator Cameron interjecting—

Senator McGrath: As much as I would love to have a good chat with Senator Cameron, I think we should focus today on the coalition's commitment to stop the boats. The coalition went to the last election and the 2010 election to stop the boats, because we wanted to build a safe and secure Australia. This included a package of policy measures we took to the last election and included turning back the boats where safe and the reintroduction of temporary protection visas, which were previously very successful in stopping the boats during the term of the Howard government.

Despite being opposed by Labor and the Greens at every turn, this government's strong stance has been an excellent success to date in stopping the boats, preventing deaths at sea and getting children out of detention. We are building a safe and secure Australia.

Senator Cameron interjecting—

Senator McGrath: We have had some interjections here, but I am very happy for them to talk about Labor's record and the Greens' record when they were in government. They do not want to talk about their record when they were in government. For Labor and the Greens, for the period between 2007 and 2013 they have a collective amnesia about what happened with border protection and building a safe and secure Australia. It was Labor and the Greens under the Rudd-Gillard-Rudd governments that weakened Australia's borders and caused an influx of people smuggling and boats arriving on Australia's shores. Labor pursued 11 immigration policies while they were in government. Tony Abbott, Scott Morrison and Peter Dutton have led the government's charge to build a safe and secure Australia—

The Acting Deputy President (Senator O'Neill): I remind you to call the gentlemen you just mentioned by their proper titles.

Senator McGrath: I take your point—the Prime Minister and the relevant ministers. The most excellent Prime Minister Tony Abbott and his most excellent ministers have pursued fantastic policies to build a safe and secure Australia; but, sadly, despite the government's success, Labor and the Greens continue to refuse to support the only policy package that is actually getting children out of detention.

When Labor came to office in 2007, there were no children in detention. There were none. There were zip, there were zero, there were null, there were nil. There were no children in detention. Children in detention under Labor and the Greens peaked at 1,992. In 2007, when Labor came to power, there were no children in detention, but at the peak under the Labor-Greens government there were just under 2,000 children in detention. What I am hearing at the moment are the interjections from Labor in terms of why they are not proud but suffering collective amnesia as to why there were 2,000 children in detention under the Rudd-Gillard-Rudd governments.

In August 2013, just before this coalition government came to power, there were 1,743 children in detention. Today, thanks to the policies of the coalition government and support from crossbench senators, there are no children in detention on Christmas Island and under...
120 children in detention on the mainland. I agree with the previous speaker, Senator Canavan, that none of us wish to see children in detention, which is why when the Howard government lost office in 2007 there were zero children in detention. So I am sometimes perplexed by Labor's approach to securing our borders considering their failures between 2007 and 2013. These statistics more than anything highlight the hypocrisy of Labor and the Greens when it comes to border protection.

The Migration Amendment (Protection and Other Measures) Bill 2014 seeks to build upon the coalition's successful border protection policies, in particular those introduced by the Migration and Maritime Powers Legislation Amendment (Resolving the Asylum Legacy Caseload) Act 2014, which for ease we will just call RALC and which was passed on the final sitting day of last year. RALC reintroduced temporary protection visas. This was about getting children out of detention on Christmas Island and introduced the fast-track system amongst other measures.

This bill seeks to amend the Migration Act 1958 to increase efficiency and enhance integrity in the onshore refugee and complementary protection status determination status and is necessary for RALC to work efficiently. This bill clarifies the responsibilities of asylum seekers to provide and substantiate claims in relation to protection visas so that, if they do not cooperate with the government to establish their identity, they will not be given the benefit of a protection visa. This strong stance is in line with the law in other comparable nations such as the United States, United Kingdom and New Zealand. The bill will enable the Refugee Review Tribunal to draw an unfavourable inference about the credibility of claims or evidence raised by a protection visa applicant for the first time at the review stage. Currently, non-genuine asylum seekers can game or play the system by presenting new claims or evidence to bolster their original unsuccessful claims, causing significant processing delays for other, genuine applicants. Under this change, the incentive will be for all applicants to present all of their documentation and evidence at the first instance rather than seeking to have multiple bites of the cherry.

The bill will also create grounds to refuse a protection visa application where an applicant refuses or fails to establish their identity, nationality or citizenship. Establishing an applicant's identity is vital for making a decision to grant or refuse a visa. An individual's identity, nationality or citizenship can have a direct bearing on whether they engage Australia's protection obligations. These measures make it clear that Australia expects protection visa applications to be made in good faith and that presenting bogus documents for the purpose of establishing identity will result in refusal of a protection visa application unless the applicant has a reasonable explanation.

The bill also restores the 'more likely than not' threshold for complementary protection. This was originally Labor Party policy when they introduced the complementary protection provisions back in March 2012. But, yet, in another display of hypocrisy on border protection, because of their collective amnesia of the period between 2007 and 2013 Labor are now opposed to the measure—one which they actually argued for in the full Federal Court when they were in government. The coalition government are not seeking to raise the threshold but merely to return it to the level which was set by Labor.

To be clear though, the bill makes no change to the threshold applied to the refugee convention and the fast-track process established by the RALC cannot operate fully unless a
number of technical amendments in the bill are passed. Without the bill passing, the majority of the illegal maritime arrival backlog, which is approximately 22,000, living in the community on a bridging visa do not fit the definition of a fast-track applicant and cannot be processed as such. In all of this, the government are committed to ensuring Australia's compliance with its international obligations under the refugee convention, the International Covenant on Civil and Political Rights and the Convention against Torture.

The statement of compatibility with human rights which accompanies the bill addresses relevant human rights issues for each measure. I propose to look in detail at a couple of the measures in the bill. This bill is intended to improve the integrity of the consistency of decision making and prevent exploitation of the protection visa determination process, including the merits review system, by applicants not genuinely pursuing a protection claim.

The amendments in this bill send a clear message that asylum seekers have certain responsibilities. For instance, they are responsible for establishing their identity, nationality or citizenship wherever it is possible to do so. They are also responsible for making comprehensive claims to protection supported by evidence as soon as possible. The measures will apply to all asylum seekers regardless of their mode of arrival.

These amendments are necessary to ensure continued public confidence in Australia's capacity to assess claims for asylum and to support the Australian community's expectations that asylum claims are made in good faith. They are an effective response to the evolving challenges in the asylum seeker case load, recent judicial decisions and the management of the backlog of illegal maritime arrivals. It must be stressed that the bill is consistent with Australia's international obligations under the refugee convention, the International Covenant on Civil and Political Rights and the Convention against Torture.

In terms of procedural fairness, decision makers must act in good faith to fully assess protection visa applications and afford procedural fairness to asylum seekers in accordance with the codes of procedure in the Migration Act. Decision makers are also provided with guidance to be aware of the special needs of vulnerable applicants and to ensure appropriate support and consideration is provided. For instance, the department's procedures advice manual, gender guidelines and refugee law guidelines, assist in assessing claims from vulnerable applicants, including women and applicants with an intellectual disability. Vulnerable applicants include unaccompanied minors, survivors of torture or trauma and applicants who are physically or mentally incapable of taking full responsibility for their claims.

I want to go to clause 5AAA of the bill. The purpose of this provision is to strengthen the integrity of Australia's processes for assessing protection claims. Early and full presentation of claims allows refugees to be recognised at the earliest opportunity. Proposed clause 5AAA clarifies and clearly communicates responsibilities with regard to protection claims and supporting evidence by stating existing responsibilities on the face of the legislation. This measure puts a basic responsibility of an asylum seeker beyond doubt by stating it on the face of the legislation.

Proposed clause 5AAA expressly places the responsibility on the asylum seeker to make their case for protection. It clarifies that a claim that a person engages protection needs to be comprehensive and supported to the best of the asylum seeker's ability. This is an existing, basic expectation of the Australian community and the government, as well as a longstanding,
general principle of refugee status determination that the burden of proof lies with the asylum seeker.

New clause 5AAA codifies the obligations of an asylum seeker within the Migration Act, consistent with the way in which obligations of a decision maker are codified. Proposed clause 5AAA states, 'The responsibility of a person seeking protection in Australia needs to specify all the particulars of their claim and to provide sufficient evidence to establish the claim.' This responsibility is consistent with an acknowledged, longstanding principle of refugee status determination. According to the UNHCR handbook at paragraph 196:

It is a general legal principle that the burden of proof lies on the person submitting a claim. There are also responsibilities of the decision maker under clause 5AAA. It clarifies that the minister or their delegate has no responsibility or obligation to assist in making a claim on behalf of an asylum seeker or to assist in establishing that claim. It clarifies that it is not the role of the decision maker to advocate on behalf of a person seeking protection.

The role of the decision maker is to decide whether there is an obligation to provide protection by appropriately investigating and evaluating a claim for protection. The duty to evaluate and ascertain all relevant facts is shared between the applicant and the decision maker, consistent with UNHCR guidelines. The decision maker should ensure the applicant presents the case as 'fully as possible and with all available evidence' to 'assess the applicant's credibility' and 'evaluate the evidence' in order to establish the facts of a case, consistent with the UNHCR handbook at paragraph 205. Decision makers may continue to ask questions, seek clarification and check that a person's claims are consistent with generally known facts and the specific country situation in question. Procedural fairness requirements of decision makers are codified in the act and will continue to apply. Decision makers must act in good faith to fully assess protection visa applications and afford procedural fairness to asylum seekers in accordance with the codes of procedure in the Migration Act.

Any available evidence that supports the specific protection claims made by the applicant is to be presented. Under 5AAA, there is no prescribed list. Detailed, up-to-date country information will be available to decision makers. The minister or delegate needs to be satisfied, based on their assessment of the claims and evidence provided by the applicant, that the visa criteria are met. Consistent with page 40, paragraph 205 of the UNHCR handbook, the applicant is to supply all relevant information in as much detail as necessary for relevant facts to be established. The applicant should:

... make an effort to support his statements by any available evidence and give a satisfactory explanation for any lack of evidence. If necessary he must make an effort to procure additional evidence.

In the time available to me, I will also touch upon sections 91W and 91WA of the Migration Act. The purpose of these provisions is to encourage people seeking protection in Australia to provide documentary evidence of identity, nationality or citizenship wherever possible. While both sections include a refusal power, their primary purpose is not visa refusal but compliance with the objective of establishing, with genuine documents, the refugee's identity, nationality or citizenship. The changes proposed to sections 91W and 91WA are needed to discourage the use of bogus identity documents and the destruction or discarding of documentary evidence of identity, nationality or citizenship by or on behalf of people seeking protection in Australia. These measures are appropriate to the central role that establishing
identity, nationality or citizenship plays in granting a protection visa. Establishing identity allows accurate assessment of a person's protection claims, particularly in a time of increased dual and multiple nationalities. These measures also help safeguard the Australian community from people who have committed serious crimes.

Under the existing section 91W, a decision maker may request that an applicant provide documentary evidence of identity, nationality or citizenship. At the time that request is made, the applicant is warned that the decision maker may make an inference—

Senator Cameron interjecting—

Senator McGrath: We have missed Senator Cameron! Senator Cameron must, I think, have been reading some very interesting emails—because the Labor benches were very quiet while we were talking about children in detention. Why did we not have some pithy and witty interjections from the Labor Party then? Where were you?

Senator Cameron interjecting—

Senator McGrath: What were you saying when children were in detention under Labor? Where were you when those nearly 2,000 children were in detention? Where were Senator Cameron and the Labor Party? Where were they? You know what? They were in power! They were in government! The Labor Party were in power and in government when 2,000 children were in detention. Now we have collective amnesia from the Labor Party. They have this appalling, sanctimonious approach to the 120 children—and the number is going down—we have in detention. This bill should be supported. (Time expired)

Senator Xenophon (South Australia) (13:41): I support the second reading of the Migration Amendment (Protection and Other Measures) Bill 2014. However, I want to put that support in context because I do have concerns about a number of aspects of the bill. As a preface: at the end of last year I did support the government's bill, the Migration and Maritime Powers Legislation Amendment (Resolving the Asylum Legacy Caseload) Bill 2014, to reduce the legacy case load and to reintroduce temporary protection visas. I have previously set out my reasons for doing so and I will not re-canvass that debate, but I think this bill needs to be seen in the context of that earlier bill.

First, I will indicate the areas of the bill I have serious concerns about and that I will not be able to support. Schedule 2 of this bill is particularly problematic. I know the government has indicated that schedule 2 is intended to clear up drafting issues that arose out of the Federal Court of Australia decision on 24 October 2012 in Minister for Immigration and Citizenship v Mzyyl and Refugee Review Tribunal. I think it is fair to say, looking at the decision of Justices Lander, Jessup and Gordon, that they did have issues with the former government's drafting of the previous legislation—so I can see why the current government wants to clarify that.

However, I do have an issue relating to complementary protection, which is what schedule 2 deals with. The refugee convention provides that protection should be afforded to people who flee from a country out of a fear of being persecuted due to their religion, nationality, race, social group or even political opinion. However, there are, each year, a number of people fleeing countries for reasons that are outside those grounds. That is why complementary protection is important. I have been given a number of examples by the office of the Hon. Richard Marles, the shadow minister for immigration. I am grateful to his office...
for this information—as I am to the minister's office and his advisers for their great assistance in walking through aspects of this bill with me. I am genuinely grateful for that. The examples I was given included those at risk of honour killings or of female genital mutilation—or it could be that someone has been threatened by an organised criminal group in the country where they are from. These examples do not fall into the usual categories of race, religion, nationality, social group or political opinion covered by the convention, but clearly those people are at real risk for another reason. That is why this complementary protection issue is important.

The former Labor government introduced an administrative framework for complementary protection not covered by the convention. It was, as I understand it, effectively struck down by the Federal Court of Australia on 24 October 2012. Again, it was primarily, I think, an issue of drafting.

The fundamental principle here is whether the test should be if a person is at real risk of significant harm or if a person is more likely than not to suffer significant harm. Clearly, 'real risk' is a more benevolent test and a broader test than 'more likely than not'. Putting my lawyer's cap on, 'more likely than not' implies a threshold of greater than 50 per cent. I think that, when you are considering the risk of people facing very serious injury or even death if they go back to the country from which they have fled, that is simply too high a standard; it is too onerous and too unreasonable. So I cannot support schedule 2 of the bill in good conscience, for those reasons. I understand the government's motivations in respect of it; I can see what they are saying in terms of the Federal Court decision of October 2012, but I think that the 'real risk of significant harm' test is the preferable test. I compliment the minister's office on engaging in a very constructive discussion in respect of this.

That leads me to the other schedules of the bill, and I will just briefly discuss those, because I expect that we will have a fairly robust committee stage of this bill. I expect that Senator Hanson-Young, on behalf of the Australian Greens, will provide a very fulsome and constructive contribution in the context of how this will work and what the potential implications are. I think that that is very healthy in the committee stage of this bill.

There are some aspects of schedule 1 that do concern me. I will need some clarity in the course of the committee stage in terms of the issue of sufficient explanation. I think that the opposition is of the view that you can either provide evidence or a reasonable explanation. The government says that you should provide both. Having discussed that with the minister's adviser recently, my understanding of the government's position is that, if you provide a reasonable explanation and take reasonable steps to provide the evidence, that will suffice. I just want to know how that will work; that may satisfy some of the concerns that have been expressed in relation to that.

There are circumstances where individuals do not have documents or have used bogus documents because they are fleeing imminent danger and prosecution, and documents have been destroyed through no fault of their own. There are other allegations that have been made that people have destroyed their documents deliberately, sometimes on the advice of people smugglers, which can be very problematic. We need to look at that very, very carefully. I would like to see how that would work in terms of what is being proposed by the government.
and whether it should be 'and' or 'or' in the context of evidence and 'reasonable explanation'. That is an issue that needs to be dealt with.

In the committee stage, I would like an explanation of family reunions from the government. The bill says that you need to apply for a family reunion at the same time as the primary person is seeking protection. Sometimes that may not be practical. If the bill is suggesting that the people seeking family reunion also have to show that they are at risk of persecution, then I think that that would be perhaps quite unreasonable. For instance, if there is a member of a family that is subject to a death threat, the threat of mutilation or another threat by an organised criminal group, then there are issues of complementary protection; I do not think that it is reasonable to expect that members of the family also have to be subject to the same sort of threat. The fact is that, if your loved one is subject to that sort of threat, a family reunion of the immediate family is not an unreasonable consideration. That ought to be taken into account.

There are issues in respect of amending the Migration Act to include proposed section 5AAA. Senator McGrath mentioned this in his contribution, and he made reference to paragraph 196 of the Handbook and Guidelines on Procedures and Criteria for Determining Refugee Status. I do not want to misquote Senator McGrath and his considered contribution, but I think he said that it would not be inconsistent with that. He quoted the UNHCR handbook:

It is a general legal principle that the burden of proof lies on the person submitting a claim. Often, however, an applicant may not be able to support his statements by documentary or other proof, and cases in which an applicant can provide evidence of all his statements will be the exception rather than the rule. In most cases a person fleeing from persecution will have arrived with the barest necessities and very frequently even without personal documents. Thus, while the burden of proof in principle rests on the applicant, the duty to ascertain and evaluate all the relevant facts is shared between the applicant and the examiner.

It goes on to make further reference to that. My understanding of that is that the proposed section may well sit rather uneasily with the existing section 56 of the act, and I would like an explanation from the government as to how those sections would interact in respect of that. I think it is a technical issue, but I think that it is also a live issue in terms of the application of the act.

There are further questions in respect of the issue of bogus documents. Clearly, there may be some applicants who are fleeing persecution and who—in order to get out of a country because of the risk of imminent harm or even death—have used bogus documents. But there may be other circumstances where bogus documents are used where there is no such imperative. Obviously, that would concern me.

So the committee stage of this bill will be quite important. I hope that schedule 2 will be knocked out, because I think that it simply goes too far. I think there are a number of questions about how schedule 1 will apply, and I would like to test that in the course of the committee stage and, of course, to listen to my colleagues as it is tested. I look forward to the committee stage of this bill—as much as you can look forward to any committee stage of a migration bill! It is important that this be sorted out.

The final comment that I wish to make is that I think the government's main ethos in respect of this bill is that it wants to deal with the legacy case load efficiently, and I
understand that. But obviously—and I think that the government should have no issue with this—any effectiveness and any efficiency needs to be tempered by fairness. That is what the key issue will be in the committee stage, particularly in the context of schedule 1. So those are the matters that need to be looked at. I look forward to the committee stage of this bill.

Senator RUSTON (South Australia—Deputy Government Whip in the Senate) (13:52): I too rise to speak on the Migration Amendment (Protection and Other Measures) Bill 2014. As has been stated by many who have preceded me in this debate, this bill came about as a result of the passage of the Migration and Maritime Powers Legislation Amendment (Resolving the Asylum Legacy Caseload) Bill 2014, which was passed on the last sitting day of the parliament in 2014. Part of that piece of legislation created temporary protection visas. As you know, Madam Acting Deputy President, it was those temporary protection visas that enabled us to get those children who had been in detention on Christmas Island out of detention. It is very important to put in context the importance of what is trying to be achieved by resolving the asylum legacy case load. We had some 2,000 children in detention at the peak, and we have systematically reduced that number. This measure just seeks to ensure that the last of those children are out of detention and that in the future it does not happen again.

Part of this is to make sure that we fast-track the system so that we can accelerate in the most efficient and effective way the reduction of that legacy case load. Senator Xenophon—and many before who have made a contribution on this bill—raised the issue of the complementary protection provisions within the bill. I have to say I was a little surprised to learn that the Labor Party are choosing not to support schedule 2 of the bill in relation to these complementary protection initiatives, particularly given their track record in this area. All this is seeking to do is to make sure that the people who are seeking complementary protection by this mechanism are genuine. It seems a pretty reasonable request to me.

Concerns have been expressed that people may have bogus documents or may not have documents that will be able to substantiate the validity of their claims of who they are, where they have come from and what kind of danger they might be in should they be returned to the country from which they have fled. It is not the only mechanism by which they will be assessed as to the validity of their claim. Senator Xenophon made the comment that the efficiency that is sought by these measures must be tempered by fairness. I do not think there would be anybody in this chamber who does not believe that that statement should hold true across all legislation, but particularly in the area of migration.

There is this idea that we are not going to support a mechanism which gives the government the power to be able to assess whether somebody is using this mechanism to get into the country unfairly. We need to remember, with our migration intake, that every person who seeks to come to this country unfairly or without valid reason, who is not able to genuinely have refugee status, who is not genuinely able to establish their bona fides under the complementary protection mechanisms of this bill, actually puts a genuine person further down the queue.

We also need to remember that, with the limited resources that we have to process the applications that the government is faced with day after day, from people who genuinely wish to come to this country because they are trying to escape persecution from the country which they have sought to leave, we need to have some system by which we can prioritise those people who have got a genuine need to come to this country. I put that on the table—that we
need to be balanced in making sure that, in the process of trying to be efficient and effective and deal with those people who most need our help, we do not end up getting our system clogged up to save one person while sacrificing so many of the people who genuinely need help in Australia, to escape the persecution that they may have been receiving in the country from which they have come.

As I said, the bill is intended to improve the integrity and the consistency of decision making. It is to prevent exploitation of the protection visa determination process and the merits review system by applicants who are not genuinely pursuing a protection claim. Let us make it very, very clear. These amendments are specifically to send a message to asylum seekers that they too have a level of responsibility if they wish to come to this country as refugees or under the complementary protection mechanisms of this bill.

It does not seem an unreasonable thing for the person who is seeking asylum to actually have the capacity to establish their identity, nationality or citizenship and to have the responsibility for making the claim as to why they are seeking this particular protection and providing the evidence. As has been mentioned, there are obviously going to be circumstances and cases that will necessitate alternative mechanisms by which the bona fides of their claim are going to need to be assessed, but overwhelmingly the people who are coming to this country will have some method by which they can provide evidence in support of their claim as to why they should genuinely be able to seek to have protection of the Australian government in their claims for migration.

Quite clearly this bill seeks to put some balance into the argument between making sure that we speedily and effectively process these people, many of whom are absolutely genuine—and I do not think anybody has made ever made any suggestion that these people are not genuine—and the process of making sure that we have a speedy—

Debate interrupted.

MINISTERIAL ARRANGEMENTS

Senator ABETZ (Tasmania—Leader of the Government in the Senate, Minister Assisting the Prime Minister for the Public Service and Minister for Employment) (14:00): by leave—I advise the Senate that Senator Cash will be absent from question time today and tomorrow for personal reasons. In her absence, questions on the Immigration and Border Protection portfolio and the portfolio of Minister Assisting the Prime Minister for Women should be directed to Senator Payne. Questions relating to the Infrastructure and Regional Development portfolio should be directed to Senator Birmingham.

QUESTIONS WITHOUT NOTICE

Higher Education

Senator KIM CARR (Victoria) (14:00): My question without notice is to the Minister representing the Prime Minister, Senator Abetz. Can the minister confirm that despite another policy backflip the government remains committed to university fee deregulation, $100,000 degrees and a 20 per cent cut to university funding, and has only given our scientists a 12-month reprieve?

Senator ABETZ (Tasmania—Leader of the Government in the Senate, Minister Assisting the Prime Minister for the Public Service and Minister for Employment) (14:01): I can
indicate to the honourable senator that, yes, the government is committed to deregulation of universities. We believe it is very good policy. I would just remind the honourable senator that a former distinguished Labor premier and the defeated Labor candidate for Forde, Peter Beattie, warned: 'Make no mistake, without funding reform, Australian universities will inevitably slip towards mediocrity'. That is the Labor Party's proposal for the universities. Even the Labor Party's own statesmen have called them out in relation to this matter.

In relation to the assertion of $100,000 degrees, Professor Chubb and others have ruled that out and have exposed the mischief that the Labor Party have been peddling on this.

**Senator Kim Carr:** Professor Chubb? Better check your briefing notes!

**The PRESIDENT:** Order! Senator Carr, you have asked your question.

**Senator ABETZ:** In relation to a 12-month reprieve for the scientific community, I simply remind the minister that, under his charge, the Labor Party would have stopped funding as of the end of June 2015. There is not a single cent in the Labor Party forward estimates for the research and science sector in our community.

We are committed to that sector and that is why we said we would make money available, to the tune of $150 million, which has been roundly welcomed by that sector. What we have also said is that, given the discussion on higher education, we would decouple the two issues to provide that security, but also to seek to pursue the issue of university deregulation which is so vital for our children's future. (Time expired)

**Senator KIM CARR** (Victoria) (14:03): Mr President, I ask a supplementary question. I ask: did the Prime Minister authorise the education minister's threat to hold the jobs of 1,700 scientists hostage to get his way on university fee deregulation? When did the Prime Minister change his mind?

**Senator Cameron:** What a crazy bunch of ideologues you are!

**Senator ABETZ** (Tasmania—Leader of the Government in the Senate, Minister Assisting the Prime Minister for the Public Service and Minister for Employment) (14:03): Mr President, you have the ongoing interjections of the hapless Senator Cameron—a man who presided, with his Labor Party frontbench, to ensure that no money would be available to the research and science community in this country. We said very clearly that $150 million would be made available for—

**The PRESIDENT:** Pause the clock. You have a point of order, Senator Wong.

**Senator Wong:** Mr President, I rise on a point of order: relevance. The minister was asked about the Prime Minister's authorisation of the threat to hold these jobs hostage and when he changed his position.

**The PRESIDENT:** Minister, I will remind you of the question. You have 38 seconds in which to respond.

**Senator ABETZ:** The $150 million of which I was talking is exactly the money we made available to provide for the funding of those 1,700 scientists who, under the Labor Party regime, would have been sacked as of 1 July this year. Nobody was held hostage. What we as a government said was that, if you make a new policy proposal as a government, you have to have financial offsets. We had one offset that has been offered. That has not been accepted. There are now other offsets that will be made. (Time expired)
Senator KIM CARR (Victoria) (14:05): Mr President, I ask a further supplementary question. I ask: did the Prime Minister speak to his former parliamentary secretary before changing his position or did he simply heed Senator Bernardi’s public advice: ‘Playing games with our scientists and research hasn’t seemed to have done the government any favours’?

Senator ABETZ (Tasmania—Leader of the Government in the Senate, Minister Assisting the Prime Minister for the Public Service and Minister for Employment) (14:05): I am indebted to the ever-helpful Minister for Finance, who provided me with Budget Paper No. 2. I read from page 88 for the benefit of the honourable senator so that he will not continue to mislead the Australian people:

The Government will provide $150 million in 2015-16 to continue the National Collaborative Research Infrastructure Strategy, which funds the operation and maintenance of critical national research infrastructure. This funding will allow the most critical existing research facilities to continue to deliver maximum benefits to the research community.

That is $150 million that Senator Carr could not get out of the Labor cabinet when he was part and parcel of the Labor ministry in control of this country. So these are crocodile tears from Senator Carr. We are used to them, but they do him no justice.

Death Penalty

Senator MASON (Queensland) (14:06): Mr President, my question is for the Attorney-General. Can the Attorney-General update the Senate on the current situation regarding Andrew Chan and Myuran Sukumaran?

Senator BRANDIS (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (14:06): Thank you very much, Senator Mason, for your continued interest in this very difficult issue. The government and all members of parliament remain deeply concerned about the situation. As honourable senators would be aware, on 4 March, Chan and Sukumaran were transferred to the jail in the Nusakambangan complex in Central Java. DFAT officials have facilitated visits to the two men by their families. The Prime Minister has also spoken by telephone with the families of Mr Chan and Mr Sukumaran.

Following the decision of the State Administrative Court of Indonesia about the rejection of a clemency plea, lawyers for the two men lodged an appeal against this decision on 2 March, which is currently pending. There are currently two legal avenues underway. First is the appeal against the final rejection of the clemency plea. There are also judicial commission hearings underway in relation to allegations of bribery and corruption at the original trial of Mr Chan and Mr Sukumaran.

The state administrative court will hear the appeal—that is, the first of the two avenues to which I referred—on 19 March, later this week. The Foreign Minister has advised that it is her understanding that further plans for the executions would not proceed while those legal options are being pursued. And, indeed, as well as that the government through the Prime Minister, the Foreign Minister, myself, the Minister for Justice and senior officials have entreated the Indonesian government on many occasions now to spare the lives of these two Australians.
Senator MASON (Queensland) (14:08): Mr President, I ask a supplementary question. Can the Attorney-General inform the Senate about what the Australian government is doing to try and spare the lives of Andrew Chan and Myuran Sukumaran?

Senator BRANDIS (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (14:08): I mentioned, in response to the primary question, the many entreaties on behalf of by the Prime Minister and senior ministers. One of my representations to the Indonesian government was to the Coordinating Minister for Political, Legal and Security Affairs, Mr Purdijatno. Last Friday I received a response to my letter to Minister Purdijatno. The minister acknowledged the Australian government's rising concern. However, I am afraid I must inform the Senate that the letter was discouraging. It confirmed the Indonesian government's commitment to enforcing its national laws, which we understand to be a reaffirmation of the current intention of the Indonesian government to proceed with the executions.

Senator MASON (Queensland) (14:09): Mr President, I ask a final supplementary question. Finally, what can members of the Australian parliament do to assist the government's appeals to the government of Indonesia?

Senator BRANDIS (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (14:10): All members of this parliament have been immensely helpful in supporting the government's entreaties to the government of Indonesia, and I have in mind most particularly the unanimous resolution of the House of Representatives passed with bipartisan support on 11 February this year. I cannot stress enough the absolute criticality that the Australian parliament continue to speak with one voice. I cannot emphasise enough the absolute criticality of all members of the Australian parliament putting to one side any considerations of political advantage and supporting to the utmost and in a clear voice the Australian government's entreaties on behalf of Mr Chan and Mr Sukumaran.

Superannuation

Senator BILYK (Tasmania—Deputy Opposition Whip in the Senate) (14:11): My question is to the Minister for Finance, representing the Treasurer, Senator Cormann. I refer to the Treasurer's latest thought bubble involving young Australians accessing their superannuation to purchase a home. Does the finance minister stand by his previous statement of 'Pumping more money into the housing market by letting people access their superannuation savings more freely will not bring down the cost of housing'?

Senator CORMANN (Western Australia—Minister for Finance) (14:11): My views were very clearly put on the record towards the end of last year. The government has not actually put any proposal on the table to let people have access to their superannuation to buy their first home. However, we do know who has put a proposal like that on the table before, none other than former Labor Prime Minister Paul Keating, who in 1993 said that we should let people have access to their superannuation to buy their first home.

Senator Kim Carr: That was when it was 15 per cent.

The PRESIDENT: Order on my left.

Senator CORMANN: No, it was not 15 per cent in 1993. Senator Carr was already in the Senate at the time so he will be able to confirm what I am saying. He is trying not to look at
me because he knows that I am telling the truth. He knows that it was none other than former Prime Minister Paul Keating who said that we should let people have access to their superannuation to buy their first home.

The truth is that all the Treasurer has said and all the Prime Minister has said in the context of proposals being put together was 'let's have a conversation about it'. We should have lots of conversations. But what we should have a conversation about is? How we can fix the mess that the Labor Party left behind? How we can get spending growth back on a more sustainable foundation? How we can get the budget back under control so that we can put Australia a stronger foundation for the future, protect our living standards, build a stronger more prosperous economy, create more jobs and ensure that everybody has the best possible opportunity to get ahead?

The Labor Party coming in here and playing politics again does not actually add anything to the debate. What the Labor Party should do is engage seriously in the conversation about the future of our country. *(Time expired)*

**Senator BILYK** (Tasmania—Deputy Opposition Whip in the Senate) (14:13): Mr President, I ask a supplementary question. I refer to comments by the Prime Minister who has described accessing superannuation to purchase a home as 'a perfectly good and respectable idea'. I also refer to comments by the alternative Prime Minister, the Minister for Communications, who said it was, 'a thoroughly bad idea'. Who is correct, Prime Minister Abbott or Minister Turnbull?

**Senator CORMANN** (Western Australia—Minister for Finance) (14:14): There are a lot of good people from across Australia who have put that idea to us. The Prime Minister is very respectful of good people across Australia putting forward ideas. The government does not just dismiss any idea that is put forward in an arrogant fashion like the Labor Party appears to do.

We have a Prime Minister with a thoroughly bipartisan spirit. He did not want Mr Keating to feel bad about the fact that this is an idea that he has put forward in the past. I would have thought that the Labor Party would be grateful for the bipartisan spirit with which our Prime Minister—

**The PRESIDENT**: Pause the clock. Senator Wong, do you have a point of order?

**Senator Wong**: Yes, Mr President. I am sure we are all very grateful for the reference to the former Labor Prime Minister Keating, the architect of superannuation. But the question was about the inconsistency—or the contradiction—between the alternative Prime Minister, Mr Turnbull, who said this was a thoroughly bad idea, and the Prime Minister, who says this is a perfectly good idea. That was the question and I would ask the minister to be directly relevant to the question.

**The PRESIDENT**: Thank you, Senator Wong. In relation to your point of order—

**Senator Conroy**: Come on, Terminator!

**The PRESIDENT**: Order! It would be appreciated if you referred to members in the other house by their correct titles. Senator Cormann, you have 24 seconds left in which to answer the question.
Senator CORMANN: Thank you very much, Mr President. I just noted the ultimate vote of no confidence by Senator Wong for the leadership of Bill Shorten, because we on this side of the chamber thought that Bill Shorten was the alternative Prime Minister. But, of course, Senator Wong has different ideas!

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

Senator Conroy: Yes, Mr President. My point of order is on relevance—

Opposition senators interjecting—

Senator Abetz: The smart aleck point of order has backfired!

The PRESIDENT: Order on both sides!

Senator Conroy: There is no construction of this question that could involve reference to Mr Shorten. Mr President, could you ask the minister to come back to the question, please?

The PRESIDENT: Thank you, Senator Conroy. I do not believe there is a point of order there. Senator Cormann, you have seven seconds in which to respond.

Senator CORMANN: Clearly, Senator Wong is embarrassed that former Prime Minister Keating put forward that proposal. My belief in relation to this—(Time expired)

Senator BILYK (Tasmania—Deputy Opposition Whip in the Senate) (14:16): Mr President I ask a further supplementary question. I refer to comments by Mr David Murray, chair of the government's Financial System Inquiry, who says:

To divert money into housing at any stage during the build-up in superannuation savings is not consistent with having a good retirement income system. Is Mr Murray correct?

Senator CORMANN (Western Australia—Minister for Finance) (14:17): Mr Murray is a fine man. And do you know what? When you are having a national conversation you actually want to hear a diversity of views. We have people from the Labor side who think it is a good idea to let people have access to their super to access their first home, as we have people on the coalition side—indeed, I think that Senator Canavan has pursued similar proposals in the past. And also Senator Xenophon, indeed—and I see him nodding, not from his chair. There is a whole range of people who have put a range of diverse views. But the government is actually very keen to engage with all the good people across Australia. We are not here dismissing views that are right from the top.

My personal views are well known. I have put them on the record in the past. There is no government proposal on the table, but I see that the Labor Party is very uncomfortable about having a national conversation about anything. It is time that the Labor Party actually started focusing on public policy.

Senator Conroy: Mathias, there was a bloke who looks just like you at the grand prix yesterday!

The PRESIDENT: Order! Senator Conroy—there is someone who looks like you in the chamber!

Higher Education

Senator SINODINOS (New South Wales) (14:18): My question is to the excellent Assistant Minister for Education and Training, Senator Birmingham, representing the
Minister for Education and Training. Will the minister outline to the Senate the alternative proposals to ensuring opportunity for students in higher education?

**Senator BIRMINGHAM** (South Australia—Assistant Minister for Education and Training) (14:18): I thank Senator Sinodinos for that question—a very important question, because there are now in Australia two very different future approaches to higher education funding and support for this country. Two very different approaches.

One is an approach that builds on a legacy of reform in Australia that has created the higher education system we have today, and which will position it well for the future. It is our policy. It is a policy on this side that puts confidence in the capability of Australia's 41 universities to be able to chart their pathway—the best pathway possible—to be able to create opportunities for Australian students and the Australian economy, versus the alternative that has now been outlined by those opposite, which is one of 'government knows best'. It is one which would roll back the reforms of the last couple of decades and that would take back the reforms of the Gillard government that opened up opportunity in Australia's higher education sector.

On our side we are progressing with important nation-building reforms when it comes to our higher education capabilities. We will increase opportunities for disadvantaged students; increase the pathways for people into university; and support, through Commonwealth subsidies, places for sub-bachelor degrees that have never been supported before and which are not covered for support by those opposite. We will create a new Commonwealth scholarships system, creating more opportunity for people—especially from disadvantaged backgrounds.

This stands in stark contrast to the approach of those opposite, whose model, it appears, wants to go back to the days of caps on university places and an approach that focuses on completions that will ensure they drive out of the system those from the most disadvantaged areas of Australia and which will reduce the opportunity for those they pretend to support—(Time expired)

**Senator SINODINOS** (New South Wales) (14:21): Mr President, I ask a supplementary question. Can the minister advise the Senate of the consequences for students of reimposing caps on student places or controls on universities?

**Senator BIRMINGHAM** (South Australia—Assistant Minister for Education and Training) (14:21): Indeed, we have heard from Senator Carr, Mr Shorten and the Labor Party in the last week that apparently what they stand for is the introduction of 'compacts' with Australian universities. Well, let's detail what a 'compact' actually looks like. A compact, of course, would be Senator Carr and Canberra—a bureaucracy—saying to Australian universities, 'You can only take this many students in these particular subjects.' It would be a complete deregulation of Australian universities. It would fly in the face of what Ms Gillard claims was one of the proudest achievements of her government: the uncapping of student places, the opening up of opportunities.

What we want to do with our reforms is build on that uncapping so that we actually have the opportunity for universities to continue to expand access—and access beyond and below that bachelor degree level. That is what our reforms do; Labor's would recreate 'Moscow on the Molonglo', as it has been called, with Senator Carr determining all that happens. (Time expired)
Senator SINODINOS (New South Wales) (14:22): Mr President, I ask a further supplementary question. Can the minister advise the Senate of support for higher education reform?

Senator BIRMINGHAM (South Australia—Assistant Minister for Education and Training) (14:22): There is not enough time in 60 seconds to outline all of the areas of support for our government's higher education reform package. Universities Australia stands shoulder to shoulder with the government on this—

Senator Kim Carr: Really?

Senator BIRMINGHAM: with 40 of the 41—

Opposition senators interjecting—

The PRESIDENT: On my left!

Senator BIRMINGHAM: vice-chancellors supporting reform. But do not just listen—

Senator Kim Carr interjecting—

Senator BIRMINGHAM: If those opposite do not want to listen to the universities and they do not want to listen to—

Senator Kim Carr interjecting—

The PRESIDENT: Senator Carr!

Senator BIRMINGHAM: Senator Carr needs to calm down or he will pop a button on his waistcoat.

Senator Kim Carr interjecting—

Senator BIRMINGHAM: If they do not want to listen to the university sector, perhaps they could listen to the Labor figures: John Dawkins, Maxine McKew or Peter Beattie, who said today in *The Australian*:

... without funding reform, Australia's universities will inevitably slip towards mediocrity and the quality of ... Australian graduates ... will decline in relation to our international competitors ... This is the Labor Party speaking and advocating for reform. Why doesn't the modern Labor Party get on board and support it? *(Time expired)*

Renewable Energy

Senator MILNE (Tasmania—Leader of the Australian Greens) (14:23): My question is to Senator Ronaldson, the Minister representing the Minister for Industry and Science. Is the government aware of the evidence in all the reviews, including its own review, that reducing the renewable energy target will slash jobs and industry investment while pushing up electricity bills and pollution. If so, will the government now admit that its attack on the renewable energy target is designed for one thing and one thing only: to prop up the diminishing value and profits of coal fired generators by several billion dollars?

Senator RONALDSON (Victoria—Minister for Veterans' Affairs, Minister Assisting the Prime Minister for the Centenary of ANZAC and Special Minister of State) (14:24): Thank you. What an extraordinary question, Senator Milne. It beggars belief—through you, Mr President—that you can actually stretch a bit of string as long as that. What I will say—

Senator Milne interjecting—
Senator RONALDSON: Do you want an answer to the question or not? Mr President, what we have made quite clear is that this government supports renewable energy. We are committed to a RET that allows sustainable growth in both the small- and large-scale renewable energy sectors. As you are acutely aware, we have made it quite clear that we will not change the level of support provided to household solar. In fact, I think even those opposite acknowledge that the RET is broken, and if they came to the table we could probably get this resolved a bit quicker. Those opposite—not you, of course, Senator Milne—know that the RET is broken. That is why we said to the Australian Labor Party: ‘Come and join us. Come and talk about it. Start getting a long-term vision for where we need to be.’ You, Senator Milne, of course, are completely out of this debate. You are irrelevant to this debate. But I do say to those opposite: ‘Come and talk to us and see if we can resolve this issue’.

What is also quite clear is we want to fix the RET. We have said that. And we have put forward a clear proposal that would provide certainty for the sector and see the amount of renewable energy produced under the scheme double between now and 2020. We have said we will not change anything in relation to household solar. We have also said we are going to exempt emissions—(Time expired)

Senator MILNE (Tasmania—Leader of the Australian Greens) (14:26): I think the appropriate words were ‘out of this debate’—but, anyway. Mr President, I ask a supplementary question. The International Energy Agency report released last week documented that, for the first time in history, worldwide emissions did not grow, in a global economy that grew three per cent in 2014. Does the government now accept that its attack on the renewable energy industry is undermining the global competitiveness of Australian industry into the future?

Senator RONALDSON (Victoria—Minister for Veterans’ Affairs, Minister Assisting the Prime Minister for the Centenary of ANZAC and Special Minister of State) (14:27): I thank the honourable senator again for her question. New large-scale renewable energy projects are not being built, because the electricity market is oversupplied. I know that you cannot understand nor will you acknowledge the situation, but I am afraid it is indeed a fact. Anyone who wants to have a sensible debate and engage in this needs to understand that as the starting premise. The fact that you do not again indicates that you are incapable of being part of a long-term discussion.

We want to provide certainty. The renewable energy sector wants certainty. I note that in 2001 when RET was introduced by the Howard government—and this is a fascinating figure—hydro made up almost eight per cent of Australia’s total electricity supply—(Time expired)

Senator MILNE (Tasmania—Leader of the Australian Greens) (14:28): Mr President, I ask a further supplementary question. Given that there are 9,000 megawatts too many in the system, why wouldn’t you close down coal fired generation and bring down emissions rather than prop-up coal and cut down on renewables—if you are interested in competitiveness?

Senator RONALDSON (Victoria—Minister for Veterans’ Affairs, Minister Assisting the Prime Minister for the Centenary of ANZAC and Special Minister of State) (14:28): I suspect there are a number of workers in the Australian coal industry who again want to hear the Australian Greens talk about taking their jobs away from them, about taking their future away from them and from their children. But you go and argue the case out there.
As I said to you before about what the RET figures were in 2001, after 14 years of this scheme and $9.4 billion worth of support from electricity customers, renewable energy now provides around 14 per cent of Australia's electricity.

We believe renewable energy is an important part of Australia's energy mix. We want to see the amount of renewable energy grow in the next five years. We remain open to those who want to engage in sensible debate. We are open to those who want to talk about the future of the renewable industry. You have cut yourselves out of this debate, Senator Milne. I say to the Australian Labor Party: sit down and get this resolved. (Time expired)

Indigenous Health

Senator JOHNSTON (Western Australia) (14:35): My question is to the Assistant Minister for Health, Senator Nash. Will the minister update the Senate on the government's commitment to funding for Indigenous health?

Senator NASH (New South Wales—Deputy Leader of The Nationals in the Senate and Assistant Minister for Health) (14:30): I thank Senator Johnston for his question. Last month, we heard the outcomes from the latest Close the gap report, and this week National Close the Gap Day will provide the opportunity for communities around Australia to hold events and recognise the importance of this national commitment.

Recently, I was very pleased to announce, along with the Minister for Health, Sussan Ley, a commitment of $1.4 billion in primary health care for Aboriginal and Torres Strait Islander people and communities. This funding will support 112 Aboriginal community controlled health organisations from 1 July 2015 to continue delivery of primary health care to Indigenous communities around the nation. Ensuring continuity of care for clients and services is important and a key investment in closing the gap. The funding is provided over three years from 2015-16 to 2017-18 to over 100 Aboriginal community controlled health organisations. This demonstrates this government's confidence in ACCHOs and recognition of the key role they play in the delivery of essential primary healthcare services for Indigenous Australians.

While there have been some improvements in health outcomes, we all know there is much work to be done with Indigenous health outcomes. This funding reaffirms this government's commitment to closing the gap and to meeting the government's priorities of getting Indigenous Australians into work, ensuring children go to school and making communities safer. Overall, this government is investing $3.1 billion over the next four financial years in Indigenous health, an increase of over $500 million when compared with the previous four years. The challenges include tackling the high health needs of individuals and communities that often live in challenging circumstances with chronic and complex conditions. ACCHOs play a unique and vital role in our efforts to close the gap in health outcomes through working with communities to improve access for Indigenous families to primary or preventive health care.

Senator JOHNSTON (Western Australia) (14:32): Mr President, I ask a supplementary question. Can the minister explain to the Senate how the government will ensure that this investment in Indigenous health will lead to quality services on the ground?

Senator NASH (New South Wales—Deputy Leader of The Nationals in the Senate and Assistant Minister for Health) (14:32): One of the things this funding includes is the Healthy
We know the importance of investing in good data and information to continuously improve clinical practice and service delivery. This initiative focuses particularly on the areas of child and maternal health and chronic disease management and builds on what we know works to develop efficient and effective services that can deliver improvements in health outcomes.

Through this and other initiatives announced in the 2014 budget, the government is investing in programs with a strong evidence base that will ensure outcomes are achieved across the health system. This commitment of funding is a concrete example of this government's commitment to closing the gap by ending the cycle of disadvantage, which starts with poor child health.

Senator JOHNSTON (Western Australia) (14:33): Mr President, I ask a further supplementary question. Can the minister inform the Senate how the government will ensure long-term improvements in Indigenous health outcomes?

Senator NASH (New South Wales—Deputy Leader of The Nationals in the Senate and Assistant Minister for Health) (14:33): As announced last year, we are committed to driving long-term improvements in health outcomes and closing the gap in life expectancy through the continuation of the National Aboriginal and Torres Strait Islander Health Plan 2013-2023. The health plan was developed with significant input and ownership from Aboriginal and Torres Strait Islander people and the Indigenous health sector. The health plan sets out a 10-year framework for Aboriginal and Torres Strait Islander health policy and programs. We are working in partnership with the National Health Leadership Forum to develop the implementation plan, which will set out the actions required to translate good intentions into actions, and states and territories will be engaged through the revision of framework agreements. Through the implementation plan, we are seeking multipartisan support. We are focusing on results and building on what works to ensure long-term improvements in health outcomes for Aboriginal and Torres Strait Islander people.

Telecommunications Data Retention

Senator LUDLAM (Western Australia) (14:34): My question is to the Attorney-General, Senator Brandis. Attorney, I refer to representations made to the government by national broadcasters, publishers, journalists and the Australian Press Council that the government's policy of mandatory data retention poses a threat to press freedom through warrantless access to the phone and internet records of journalists and their sources. Does the Attorney-General agree that his data retention bill poses a threat to investigative journalism; and, more importantly, will he commit to postponing parliamentary debate on the bill until after the Parliamentary Joint Committee on Intelligence and Security has reported on these matters in early June?

Senator BRANDIS (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (14:35): The answer to both of those questions, Senator Ludlam, is no. But, since you refer to the parliamentary intelligence committee's report, might I acquaint you—since you seem to be unaware of the relevant recommendations—with recommendations 26 and 27, which dealt with the matter of freedom of the press.
In response to recommendation 26, the government adopted the committee's recommendation that there be a further consideration of the issue by the committee for three months. In responding to that recommendation, the government noted:

… that Australia's existing legal framework is founded on robust legal principles to provide fair and equal treatment of all subject to its laws.

The same laws, Senator Ludlam, apply to all citizens and they ought to apply equally. But perhaps even more germane is recommendation 27. The government adopted a recommendation by the PJCIS to:

… amend the Bill to require agencies to provide all authorisations issued for the purpose of determining the identity of journalists' sources be provided to the Commonwealth Ombudsman or the Inspector-General of Intelligence and Security as appropriate at the next relevant inspection.

The government also agreed to a recommendation to amend the bill to require agencies to notify the Attorney-General of each such authorisation and further require the Attorney-General to provide a report annually to the Parliamentary Joint Committee on Intelligence and Security.

So, Senator Ludlam, this issue was addressed. It was addressed in a bipartisan fashion. It was the subject of two bipartisan recommendations, both of which have been adopted by the government.

Senator LUDLAM (Western Australia) (14:37): Mr President, I ask a supplementary question. I would note, about the response to my first question, that nobody appears to be very convinced. Is the Attorney-General aware that in recent days the District Court of The Hague has struck down the laws underpinning a 12-month data retention scheme in the Netherlands, finding that mandatory data retention violated fundamental rights to privacy and protection of personal data? Why is the Abbott government exploiting the absence of strong human rights protections here in Australia and insisting on pressing ahead with this unpopular measure?

Senator BRANDIS (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (14:37): I have seen those reports, Senator Ludlam, and—with no disrespect intended to the district court in The Hague—you might care to reflect that there are perhaps thousands of courts of inferior jurisdiction within the nations of the European Community. If the best you can do to advance your argument is to light upon one isolated decision by a district court in The Hague then you are not doing very well.

The significant thing is that, when the European Data Retention Directive was struck down by the European human rights commission in April of last year, the human rights commission—as you should know, Senator, but apparently do not—struck that data directive down on the basis of proportionality. In its reasons for judgement, the European Court of Human Rights held that a properly expressed data retention directive was consistent with human rights principles.

Senator LUDLAM (Western Australia) (14:38): Mr President, I ask a further supplementary question. Can the Attorney provide the Senate with any evidence from any jurisdiction anywhere in the world that indiscriminate collection of the private information of millions of innocent people helps solve crime or keep people safe?
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): First of all, Senator Ludlam, you used the expression 'indiscriminate'. We are not talking about indiscriminate access to metadata at all. Nevertheless, Senator Ludlam, let me give you two instances. First of all, there is the advice of the former Director-General of Security, Mr David Irvine, who, in one of the last press conferences he conducted before his retirement last September, described these measures as 'absolutely crucial'.

Senator Ludlam: Evidence!

Senator BRANDIS: His words—his expert opinion, Senator Ludlam, is evidence. You may not understand what evidence is. The expert opinion of a person seized with this particular responsibility clearly is evidence.

The second item of evidence I could offer you, Senator Ludlam, is the major Europol investigation into paedophilia in Europe some two years ago, in which the use of metadata was regarded as essential for breaking that paedophile ring. (Time expired)

Industry

Senator BERNARDI (South Australia) (14:40): My question without notice is to the Minister for Veterans' Affairs, Senator Ronaldson, representing the Minister for Industry and Science. Will the minister update the Senate on the government's industry programs, particularly the progress of the new Industry Growth Centres Initiative? Further, could he explain how this initiative will help business, including small business, to develop and create more jobs?

Senator RONALDSON (Victoria—Minister for Veterans' Affairs, Minister Assisting the Prime Minister for the Centenary of ANZAC and Special Minister of State) (14:40): I thank Senator Bernardi most sincerely for his question and acknowledge his longstanding interest in Adelaide industry. It is always nice to get a question in relation to industry because, funnily enough, there has not been a question this year from those opposite—in fact, not a question since 7 July last year. When you worry about and wonder about who is actually interested in industry, it is Senator Bernardi—versus Senator Carr, who has not bothered asking a question since 7 July last year.

Indeed, I say to Senator Bernardi that, as he would be aware—and across his own state—there is an economic transition occurring. What the government want to do is to ensure that we provide industry with the opportunity to face its challenges, take the lead and create jobs in areas of Australia's economic strengths. We are transitioning from a nation that was built on farming, an economy based on farming, which then developed into manufacturing and commodities and is now turning to high-value-add sectors based on research and innovation. To keep creating jobs in the future, Australia must play to its global economic strengths.

Senator Bernardi referred to the Industry Growth Centres Initiative. It is $188.5 million which will establish five growth centres in key industry sectors. Senator Bernardi: advanced manufacturing; food and agribusiness; medical technologies and pharmaceuticals; mining equipment, technology and services; and oil, gas and energy resources. A significant goal for these organisations will be to forge better links between industry and Australia's world-class researchers and maximise the return on this nation's $9.2 billion annual investment in science and— (Time expired)
Senator BERNARDI (South Australia) (14:42): Mr President, I ask a supplementary question. I thank the minister, and I ask if he would update the Senate on other programs available to help industry transition. How will the government's wider programs assist industry to become more competitive and to create jobs?

Senator RONALDSON (Victoria—Minister for Veterans' Affairs, Minister Assisting the Prime Minister for the Centenary of ANZAC and Special Minister of State) (14:43): I again thank Senator Bernardi for that very, very important question. There are a number of innovations of this government, including the Prime Minister's $400 million Industry Innovation and Competitiveness Agenda, which aims to build on our economic strengths by improving—

Opposition senators interjecting—

Senator RONALDSON: these are notions, of course, Senator, which are foreign to those opposite—productivity, rewarding entrepreneurship and enabling business to create more jobs going forward.

The $188.5 million Industry Growth Centres Initiative, which I mentioned earlier, sits within the industry and science portfolio and again is a very, very important part of this. In addition to the growth centres, other industry programs include the $484 million Entrepreneurs' Infrastructure Program, together with targeted programs such as the $155 million Growth Fund and the $50 million Manufacturing Transition Program. We are determined to ensure that Australian industry is best placed to create these jobs. (Time expired)

Senator BERNARDI (South Australia) (14:44): Mr President, I ask a further supplementary question. Again I thank the minister. I ask if he will advise the Senate how the government's decisive action and targeted support for industry, which thereby creates jobs, contrasts to former approaches.

Senator RONALDSON (Victoria—Minister for Veterans' Affairs, Minister Assisting the Prime Minister for the Centenary of ANZAC and Special Minister of State) (14:44): I again thank Senator Bernardi. If I can just refer back very briefly to my previous answer, I want to talk about a company such as Cochlear, who recently tripled their half-year profits and, in a letter to Minister Macfarlane in relation to the Industry Innovation and Competitiveness Agenda, said it 'demonstrates the importance of linking science with industry' and it is 'a win for jobs, exports and education, and a major step forward on the path to a smart Australia'.

Obviously this agenda and this approach are completely at odds with those opposite in their six years, with a minister who was in and out on three occasions. There was absolutely no continuity of policy under the Australian Labor Party. Senator Carr was the recidivist in relation to this lack of industry policy—a complete and utter recidivist and indeed— (Time expired)

Indigenous Communities

Senator STERLE (Western Australia) (14:45): My question is to the Minister for Indigenous Affairs, Senator Scullion. Minister, is Mr Pat Dodson, first Chairman of the Council for Aboriginal Reconciliation, correct when he says:
It is not a "lifestyle choice" to be born in and live in a remote Aboriginal community. It is more a decision to value connection to country, to look after family, to foster language and celebrate our culture.

Senator SCULLION (Northern Territory—Minister for Indigenous Affairs and Leader of The Nationals in the Senate) (14:46): I do not really want to reflect or show my opinion on what Mr Dodson said in terms of lifestyle choices. But as you and I know, Senator Sterle, you are on the ground a lot.

Opposition senators interjecting—

Senator SCULLION: I will take the interjection. What I know about this is that I was on the ground the entire week this conversation was happening, and I can promise you the only thing that was not suggested to me was something about lifestyle choices. What the people on the ground—if you had bothered to be there—would suggest is that they were simply part of a conversation that was involving their future that did not involve them. That is what, fundamentally, they are interested in.

I try very hard in this portfolio not to politicise these matters, but there was a whole suite of processes that happened under your watch around provision of the funding for municipal services and a whole range of existing processes around Australia, which you attempted to do but failed to do. We have taken up that same opportunity, and we have been successful. I am just not interested in providing some sort of by-line commentary on what the very respected Mr Dodson says about the motivation for people living in communities.

Senator STERLE (Western Australia) (14:47): Mr President, I ask a supplementary question. Minister, is Mr Warren Mundine, chair of the Prime Minister's Indigenous Advisory Council, correct when he says of the Prime Minister's comments about lifestyle choices for Indigenous Australians: That is a complete misconception of what it is and he's wrong in that regard.

Senator SCULLION (Northern Territory—Minister for Indigenous Affairs and Leader of The Nationals in the Senate) (14:47): Again, those are matters for Mr Mundine. Mr Mundine is entitled, as is Mr Dodson, to have a response to what seems to be the new convention in this area, which is this word-annoying: we will take one word, and then we will go along to an Indigenous leader—

Opposition senators interjecting—

Senator SCULLION: We have had a couple of them: we have used 'cave' and 'lifestyle'. They are two things we have used. We will wave them in front of people, out of context, and we will say, 'How do you feel about that?' You have to go and answer the question. Invariably they say, 'Oh, I'm not sure,' or, 'That seems a bit odd.' Of course it is, because it was not provided in the context of the statement that was provided.

To be honest, I am not sure exactly what you think is the motivation for continuing to talk about issues that are in the margins. I can tell you what the people of Western Australia want to talk about, Senator Sterle, and that is the provision of services: 'Am I going to be included in a decision made by the Western Australian government or not?' That is a real matter for them, and it should be for us in this place. (Time expired)

Senator STERLE (Western Australia) (14:49): Mr President, I ask a further supplementary question as a very proud Western Australian who talks to more Western
Australians than most people in this room. Minister, is Mr Noel Pearson correct when he describes the Prime Minister's comments as 'disappointing', 'hopeless' and 'a disgraceful turn of events'?

Senator SCULLION (Northern Territory—Minister for Indigenous Affairs and Leader of The Nationals in the Senate) (14:49): No, he is not correct on any of those. As I said many times in the media last week, we should reflect on what the people who live in those communities are thinking. It is not about these issues in the margins; it is about making sure that they are included front and centre in the conversations about their future. At the moment, everyone is managing to have a conversation without involving those communities. I have indicated to the Western Australian government, both by calls to the Premier's office and by my presentations in the media, that that is exactly what they want to do, because there are 150 communities that right at the moment are not receiving services and are not even vaguely being considered for removal of those services, but they are themselves concerned that there may be some issue because of what has been in the media. So I have indicated to the Western Australian government that they should ensure that they bring forward their consultation process to ensure that there is no confusion in this very important area.

Vocational Education and Training

Senator RUSTON (South Australia—Deputy Government Whip in the Senate) (14:50): Can the Assistant Minister for Education and Training, Senator Birmingham, advise the Senate how the problem of dodgy training providers and marketing has come about?

Senator BIRMINGHAM (South Australia—Assistant Minister for Education and Training) (14:50): I thank Senator Ruston for the very important question she asks, because it has concerned me since taking on this portfolio late in December to see the extent to which there is a problem operating around Australia of people taking advantage of the training system. I have looked back over what has occurred in recent years as to what opened up these problems with the training system of dodgy providers who are targeting vulnerable Australians and, frankly, ripping off the Australian taxpayer in the process. It would seem that that problem has emerged and developed because of reforms implemented by the previous government. These reforms were perhaps with the best of intentions but, like so many other programs of the previous government, they were poorly delivered.

What we had was the opening up of access to the VET FEE-HELP scheme, HECS for the vocational education and training sector. The previous government removed the link to the credit transfer arrangement with universities, thereby meaning that all areas of diplomas and advanced diplomas that were accredited would be available for VET FEE-HELP. The problem was that they put inadequate safeguards and poor regulation around that. It is reminiscent, frankly, of the way the home insulation or schools halls schemes were run when you look at the waste of millions and millions of dollars and the targeting of thousands of vulnerable Australians in this process. It is a mess that we have had to act now to clean up to restore integrity to Australia's training system, to put in place reforms that protect vulnerable Australians and to ensure that taxpayers will not be saddled with significant debt into the future that is likely never to be repaid. It is a salutary lesson that those opposite, even when they have the best of intentions, are completely incapable of administering them and putting the right framework around them. (Time expired)
Senator RUSTON (South Australia—Deputy Government Whip in the Senate) (14:52): Mr President, I ask a supplementary question. Without going into the specifics of the legislation, will the minister advise the Senate of options available to the government to improve the VET FEE-HELP scheme to protect students, taxpayers and the reputation of Australian vocational education and training?

Senator BIRMINGHAM (South Australia—Assistant Minister for Education and Training) (14:53): Last week I announced reforms to the way VET FEE-HELP works which will ensure that over the next decade an estimated $16 billion in unnecessary student loans will not be taken out. That is the scale of the problem that we are confronting and taking action on. Those reforms will ban the offering of up-front inducements or incentives to students. They will make it impossible for providers to levy all of the fees associated with a diploma or advanced diploma up front in one hit at the start of a course. They will stop this notion of miraculously short diplomas occurring. They will eliminate the insidious practices we have seen like nursing home enrolments of people under the VET FEE-HELP scheme. All of these issues, of course, should have and could have been foreseen by those who operated the scheme up in 2012—those sitting opposite—but were not. We are now taking action to clamp down on it and in the process saving taxpayers billions of dollars of unnecessary loans in the future.

Senator RUSTON (South Australia—Deputy Government Whip in the Senate) (14:54): Mr President, I ask a further supplementary question. Can the minister further inform the Senate on the government's tough approach to dodgy training providers and marketing?

Senator BIRMINGHAM (South Australia—Assistant Minister for Education and Training) (14:54): Those operating in the training sector should take the reform package announced last week as a clear signal that the government is serious about protecting vulnerable Australians, about protecting the Australian taxpayer and about protecting the reputation and integrity of Australia's world-class training system. If further reforms are necessary, we will certainly take them. In addition to the measures that I just outlined to the Senate we will be looking for a clearer penalty regime for training providers who do the wrong thing, to make sure that where a vulnerable Australian has been targeted in future they are able to have their debt waived and, importantly, the Commonwealth is able to get the money back from the training provider and there is a clear penalty applied in those circumstances. We want to make sure the rules provide for all those who genuinely want training to access training, and when somebody signs onto training in Australia all they should expect to get is high-quality training outcomes, not a free iPad, a free laptop, a meal voucher or a cash incentive. (Time expired)

Indigenous Communities

Senator PERIS (Northern Territory) (14:55): My question is for the Minister for Indigenous Affairs, Senator Scullion. What did the minister mean when he said his capacity to consult with the remote communities was limited and 'has been exacerbated by the comments of our Prime Minister'?

Senator SCULLION (Northern Territory—Minister for Indigenous Affairs and Leader of The Nationals in the Senate) (14:55): Again I am pleased to be able to put that in context, because I said it. It was part of an interview that I gave where I indicated that there was a lot of noise and a lot of conversation around this but the conversation that was not being had was
with the people of the potentially affected communities. As I have just indicated with answers to my previous question from Senator Sterle, what I have been constantly saying to those involved is this is a matter entirely for the Western Australian government. The Western Australian government are currently starting off a consultation process on 30 June which I understand will take place for a year. They have said that in that period of time there will effectively not be a lot of changes to services. That is as I understand it; but, as I move around the communities, that does not seem to be the case. They do not understand that. So my attempts to get the communities' voice out there have been somewhat mollified by the noise of other people having other conversations around Australia.

**Senator PERIS** (Northern Territory) (14:56): Mr President, I ask a supplementary question. Is native title lawyer Nick Llewellyn-Jones correct when he says 'there is no doubt that, if Aboriginal groups leave their country, it can dramatically reduce the possibilities of them successfully having their native title recognised'?

**Senator SCULLION** (Northern Territory—Minister for Indigenous Affairs and Leader of The Nationals in the Senate) (14:57): Not being a native title lawyer, I would want to make that acknowledgement, but knowing a fair bit about a number of determinations I have say that actual contact now today—because many peoples, as you would know, particularly in the context of Northern Australia move between homelands and other places—between homelands as a consequence of most of these processes in Northern Australia is very clear. I guess that when native title comes into play it is usually in places where there has been a fair bit of displacement over a very long period of time, and those aspects are harder to tell.

I have had a conversation with a couple of people who know more about this. I said, 'Is there any legitimacy to this process—that somehow, because you are moving them off country, this is somehow going to be a more difficult deal?' They certainly did not seem to have the same opinion as the lawyer that you quoted.

**Senator PERIS** (Northern Territory) (14:58): Is Mr Matthew Cooke, head of the National Aboriginal Community Controlled Health Organisation, correct when he says:

> It seems we are a long way off reconciliation if even our Prime Minister doesn't know that Aboriginal people living on country is not a 'lifestyle choice' but an integral part of identity and culture.

**Senator SCULLION** (Northern Territory—Minister for Indigenous Affairs and Leader of The Nationals in the Senate) (14:58): Again, these are just quotations. We have quoted somebody who is an eminent Australian. We can find plenty of them, and they have indicated that they have found a challenge with a particular word. I am not going to get dragged into this. This whole conversation is primarily about Aboriginal Western Australians who live in a whole range of communities that are provided services by the Western Australian government. The best thing we in this place can all do is ensure that we answer the single call from those Australians, and that is: 'If you are talking about the fundamentals of our future, please engage us in that conversation.' That message is specifically for the Western Australian government, as it should be. So, to avoid distractions, the message from them is to stop talking about the distractions and start allowing them to be involved in this conversation rather than those people we can select out of the media. *Time expired*
Senator O'SULLIVAN (Queensland—Nationals Whip in the Senate) (14:59): My question is to the Leader of the Government in the Senate, Senator Abetz. Can the minister outline to the Senate what steps the government is taking to address imbalances of market power between supermarkets and suppliers?

Senator ABETZ (Tasmania—Leader of the Government in the Senate, Minister Assisting the Prime Minister for the Public Service and Minister for Employment) (14:59): I thank Senator O'Sullivan for his question and his longstanding interest in the issue. The government has recently introduced the Food and Grocery Code of Conduct to provide extra protections for suppliers in their commercial dealings with supermarket retailers and grocery wholesalers. The Australian Food and Grocery Council have said:

We congratulate the Government for progressing the Code as an industry-led solution to problems impacting on suppliers and consumers.

And, 'It is a historic day.' The code has three core objectives: to improve clarity and transparency for suppliers, to improve the standard of business conduct and to provide fair and effective dispute resolution.

The code will provide protections to suppliers above and beyond those already in the Competition and Consumer Act, including a reasonable test with the burden of proof squarely on the retailer or wholesaler to establish these circumstances; broadening the good faith obligation to ensure consistency with the common law; improve dispute resolution processes; improved record-keeping obligations; provision for free freedom of association for suppliers, allowing them to have a forum to discuss matters without the risk of adverse consequences if they decide to do so; a tailored regime for wholesalers; and, finally, a review of the code after three years to assess its effectiveness in addressing sectoral concerns and to consider the need for more stringent protections.

These changes that we have outlined are clearly being well received within the community and I congratulate those on the coalition side who have worked so hard to achieve this result.

Senator O'SULLIVAN (Queensland—Nationals Whip in the Senate) (15:01): Mr President, I ask a supplementary question. Will the minister detail to the Senate what additional powers the Australian government will provide the ACCC to investigate supermarket treatment of suppliers under the new voluntary code of conduct?

Senator ABETZ (Tasmania—Leader of the Government in the Senate, Minister Assisting the Prime Minister for the Public Service and Minister for Employment) (15:02): The food and grocery code outlines new reporting and record-keeping obligations on retailers and wholesalers. This provides the ACCC with more efficient ways to instigate further inquiries and request that these documents be provided to it for inspection to assess compliance with the code using its audit power.

Senator Conroy interjecting—

Senator ABETZ: Under the code, the ACCC can access such information and documents that go to the heart of how suppliers are being treated by retailers in a much faster and more reliable way than was previously possible. ACCC chair Rod Sims said, 'The new code makes it clear that no matter how much bargaining power a retailer holds, they must deal with their suppliers fairly.'
That is something we on this side fully agree with and, from the interjections from Senator Conroy, one suspects that the Australian Labor Party does not. (Time expired)

Senator O'SULLIVAN (Queensland—Nationals Whip in the Senate) (15:03): A dam fine answer, Minister. Mr President, I ask a further supplementary question. Will the minister further detail how the Australian government is reviewing Australia's Competition Law policy and institutional framework to help strengthen our important small business and farming sectors?

Senator ABETZ (Tasmania—Leader of the Government in the Senate, Minister Assisting the Prime Minister for the Public Service and Minister for Employment) (15:03): The government understands that effective competition is a vital element of ensuring a strong economy that allows small business to grow and prosper and thereby create jobs. That is why the government has commissioned a wide-ranging independent review of Australia's competition policy. This is the first comprehensive review of these laws and the institutional framework underpinning them in 20 years and delivers on yet another key election commitment by the coalition. The review's draft report was released last year and canvases a wide range of issues of interest to the small business and farming sectors. This includes the operation of misuse of market power, access to justice and remedies, and flexibility for small businesses such as farmers to collectively bargain with larger businesses. This is all about strengthening our economy and growing jobs for the future. Mr President, I ask that further questions be placed on the Notice Paper.

QUESTIONS WITHOUT NOTICE: ADDITIONAL ANSWERS

Higher Education

Senator ABETZ (Tasmania—Leader of the Government in the Senate, Minister Assisting the Prime Minister for the Public Service and Minister for Employment) (15:04): I understand that in answer to a question earlier in question time, I may have referred to a Professor Ian Chubb instead of a Professor Ian Young. If I did so, I seek to correct the record that the name 'Chubb' be substituted with the name 'Young'.

QUESTIONS WITHOUT NOTICE: TAKE NOTE OF ANSWERS

Higher Education

Senator O'NEILL (New South Wales) (15:05): I move:

That the Senate take note of the answer given by the Minister for Employment (Senator Abetz) to a question without notice asked by Senator Carr today relating to higher education.

What we heard today should alarm every single family and every single person in this country interested in the benefits of higher education for this nation. What we heard unabashedly declared by Minister Abetz when he was asked about this next change in policy for higher ed was, 'Yes, we are committed to deregulation.' He said it again today; it is clearly on the record. In that commitment to deregulation, he is representing a government that is committed to removing the opportunities for hundreds of thousands of Australians to access universities and degrees, and the opportunities that that will present for them and this country.

Make no mistake: we have had mark I of their disgraceful higher education 'reform' package. We have had mark II of their destruction of the higher education sector. This is now mark III. It is the same for all intents and purposes, approved by that great triumvirate now of
Mr Abbott, Mr Hockey and Mr Pyne—the three of them colluding to take away the future of young people and mature age students in this country who want to access higher education. Today, they have come out with their tricky campaign for No. 3, the third go at trying to get this disgraceful piece of legislation through the parliament. This time they are going to split it apart so it looks a little different. I used to try to hide the vegetables in the cooking that I did for my kids by camouflaging it, but in the end they were able to figure out that I was hiding the vegetables. This government think they can camouflage the same package by presenting it in a different shape. This time they have 20 per cent cuts. They are trying to pretend those cuts are off the table, but they are absolutely a part of their package. They also say that they are still committed to deregulation. With those two things, they create the context for $100,000 degrees.

On 6 March we heard evidence in the Senate Education and Employment References Committee about exactly how destructive and chaotic this government is—not only with their legislation but with the absolutely disgraceful way they have tried to bully the Senate. They are holding to ransom an entire sector of the Australian education and innovation industry. The National Collaborative Research Infrastructure Strategy, or NCRIS, has some of the best and brightest in the country. We heard from a number of representatives of key elements of NCRIS, including Professor Goodnow. People in the gallery and people listening to this debate today would know about the great work being done in genomics and immunotherapy. Professor Goodnow told us about the time he spends at Westmead's children's hospital and in particular about one young boy—how they were able to find out that this boy had a mutation of a single element of his entire genetic blueprint.

Professor Goodnow explained how critical the work was. He said: … it depends on: being able to bring together the doctors in the hospital and in the university sector with big DNA genome sequences, which is NCRIS; having big pipelines for moving huge files of data around, which is NCRIS; having experts to run that through the biggest supercomputer in the southern hemisphere, which is NCRIS; being able to model that in a laboratory in mice, which is NCRIS; and then bringing that together with all of the pharmaceutical development and biotech, which is NCRIS. That is the kind of work this institution is doing, along with a lot of other fantastic and innovative scientific work. That is the institution that this shameful government—the shameful triumvirate of Mr Hockey, Mr Pyne and Mr Abbott—want to put over a barrel. They are threatening to take away NCRIS's $150 million in funding in order to get the Senate to vote for their disgraceful higher education bill.

They are a desperate government. The chaos they are trying to inflict not only on the scientific community but on the higher education sector is writ large in everything they are doing this week. This backflip—another one from a government that cannot deliver what they said they would but who have instead delivered a shameful list of travesties—shows that they simply do not understand the damage they are inflicting on the country. We have had many representations from people in the sector telling us that we need to stand firm with Australians who believe in higher education. Labor will never abandon those Australians. (Time expired)

Senator IAN MACDONALD (Queensland) (15:10): I proffer to the Labor Party some advice—and the advice is this:
The Senate is holding back Australia's future. Only bipartisanship can end the nonsense. Australia will be left behind if the funding reforms do not proceed. All it takes is putting aside politics and putting Australia first.

I do not claim to be the author of that advice. That advice came from a former premier of my state of Queensland, the Hon. Peter Beattie, a man who has quite some history in relation to university reform.

Government senators interjecting—

Senator IAN MACDONALD: He was, as my colleagues point out, a Labor Premier of Queensland. Mr Beattie is proffering that advice, which I pass on to Senator O'Neill and other members of the Labor Party. I urge those members of the Labor Party to understand what experienced people like Mr Beattie say about university reform.

If Senator O'Neill and other Labor Party senators are not terribly enamoured with Mr Beattie's advice, I refer them to the advice of some other prominent Australians. There is Mr Gareth Evans. People who have been in this chamber as long as I have—

Senator Conroy interjecting—

Senator IAN MACDONALD: will remember when Gareth Evans, then Senator the Hon. Gareth Evans, was Leader of the Government—the then Labor government—in the Senate. Former Senator Evans is quite open these days about his support for university deregulation. I did not quite get Senator Conroy's interjection—

Senator Conroy: I said you are the only one who was here then!

Senator IAN MACDONALD: I thought it must have been something about Mr Evans no longer being in your Victorian faction, Senator Conroy. But Mr Evans is certainly very clear about his views on university reform. I also refer doubters and those from the Labor side of the Senate who might contribute in this debate to the urgings of Mr John Dawkins. Mr John Dawkins is often referred to as the father of university reform in Australia. Notwithstanding, from my point of view, that he was a Labor minister as well, his advice in relation to university reform is certainly advice I would urge my colleagues opposite to take some notice of. I could continue going on and on. There are not only senior people in the education system but senior people in the Labor Party who are pleading with the Labor Party to do the right thing by Australia and allow these reforms through. I will complete this section of my speech by referring my Labor colleagues opposite to the words of Maxine McKew, the former Labor member for Bennelong. Again, she is one of those who understands higher education and she is urging the Labor Party to get out of the way—to do something positive for Australia and allow this university reform to go through.

The Labor Party are simply running some of their traditional scare campaigns. There are many of them going around. The scare campaign on fees is false. Labor senators should know that fees already announced by the University of Western Australia, the Queensland University of Technology and the Australian Catholic University show that universities will be reasonable. No one needs to pay a cent up-front or pay back anything until they are earning $50,000 or more a year. What has been shown is that the universities are sensibly addressing the issues of fees so that they can make university education available to all Australians and, importantly, to ensure that the universities have the funds to make Australia's university system a world-class system, not one where Labor wants—(Time expired)
Senator BILYK (Tasmania—Deputy Opposition Whip in the Senate) (15:15): I too rise to take note today and debate the fairly disappointing answers given by Senator Abetz to questions by Senator Carr. Senator Abetz’s answers were evasive and certainly failed to address the substance of this issue. They were pretty disappointing and typical of the cavalier attitude that the Abbott government has to this place, Labor, the crossbench senators and the Australian people.

It is common knowledge that only through education will Australia be fully developed to our economic potential, our scientific potential and, in fact, our people’s potential. So why is the Prime Minister and Minister Pyne continuing to try to cut money from higher education? Why are they trying to destroy the higher education system? Labor will vote against cuts to university funding and student support. We will vote against them and we will not support a system of higher fees, bigger student debt, reduced access and greater inequality. We will never, ever agree that education should only be available if you have the capacity to pay.

Since the budget, we have seen that it is not only Labor that opposes the government's unfair and short-sighted higher education package; Australians overall oppose them. They oppose cuts of up to 37 per cent to public funding for undergraduate courses. We hear from the other side that university fees are not going to rise, but we know that that is not true. If you look around the world, there are examples—like in the UK—where university fees have risen substantially for people. Those on the other side need to take full account of what is happening in other places.

Lots of us have children, grandchildren, nieces, nephews and young people we know. We want to see them have the same opportunities that we have been able to have. Maybe some of us have not had that opportunity, but we still want to see that opportunity for the next generation to pursue their education at Australia’s best universities without facing crippling debt. It is pretty amazing that today Minister Pyne had to make another embarrassing backflip. It is pretty hard for anybody to keep track of where the government is at in regard to higher education.

Senator Conroy: Another backflip!

Senator BILYK: Yes, another one, Senator Conroy. It is pretty hard for people to keep up on where the government is at. Minister Pyne had to make a backflip on the bullying tactics of trying to hold the scientific community as hostages to get the higher education package through. That was an obviously wonderful strategy that somebody had come up with on that side! They really backflipped. It really was not going to work for them. The crossbenchers in particular were very angry about that being held to ransom and having the 1,700 jobs of the scientists being held to ransom.

Minister Pyne had threatened funding for 1,700 research jobs unless members of this place voted through his unfair $100,000 degrees and 20 per cent cuts to university funding. The minister threatened to absolutely destroy Australia's research sector unless this place made his petty, cruel cuts to higher education. He had to backflip. Yet again, it is another backdown by the government. They go in there and they have these thought bubbles. I doubt they are discussing it with themselves, because members of the Senate backbench were very upset by this happening. We even had Senator Bernardi saying that move appeared counterproductive. I do not know who they are talking to on that side. I would suggest that they do a lot more talking to a lot more people and that they stop having these rushes of blood to the brain where
they think that they can bully people and intimidate people. They had to back down on the GP tax and now they have had to back down from reducing funding.

The funding was already there; that funding was already in the forward estimates. There was 21 months' worth of funding left there when the government came to power. They should have been able to make sure that funding was continuing without having to threaten or cajole— *(Time expired)*

**Senator Back** (Western Australia) (15:20): It is a shame that the people in the gallery were not there for Senator O'Neill's contribution earlier, when she was speaking with great eloquence and great passion about the $150 million that is now being removed under the National Collaborative Research Infrastructure Strategy. We have just heard Senator Bilyk going on about this $150 million being carved out of the budget. Unfortunately for those who were in the gallery earlier, they will not hear this news: do you know what the then Labor government had done with the $150 million? They had cut it out completely. There was nothing. There was zip. The bucket was empty.

I congratulate Senator Abetz on his response to Senator Carr's question, when he actually read out a document provided to him by the Minister for Finance. Way back in the budget last year, do you know what the coalition had done? We actually put the $150 million in there. Isn't that amazing?

**Senator Bilyk:** You are talking nonsense.

**Senator Back:** Isn't it absolutely amazing that people have to listen to Senator Bilyk's nonsense in silence, but we cannot speak without interjection from Senator Bilyk? I will tell you the one person who does need a university education: the shadow minister, Senator Carr. He goes on, as Senator O'Neill did, about $100,000 degrees. I have my shoes and socks on, so I do not need to multiply three years of education at UWA—one of the finest universities in the world—by $16,000. When I was a student, three times 16 actually equalled $48,000—not $100,000. And with a four-year agriculture degree—I do not know whether Senator Bilyk has her calculator out yet—four times 16 is $64,000, not $100,000. Anybody who knows anything about competition knows that happens if there are 20 universities around the place offering a teaching degree with one wanting to charge $100,000 and the others wanting to charge $48,000. Do you know what the market does? The market moves away from the $100,000 degree and goes for the $48,000 degrees. So let us—

**Senator Conroy interjecting—**

**Senator Back:** Senator Conroy does, in fact, have an economics degree. I understand that, when he told one of his co-students on one occasion how well he was going to do and how she was going to fail, in fact, she vastly surpassed Senator Conroy in that particular course. But we will not talk about his degree in economics today. What we will do is talk about the opportunities for low-socioeconomic students that will be denied by Labor if they oppose this legislation.

History tells us what will happen. Senator Bilyk raised the UK. When the fee adjustments were made in the UK, the number of low-socioeconomic students attending universities in the UK went up dramatically. The university sector has said that the changes introduced by the coalition will dramatically increase the number of scholarships it can offer to students of low-socioeconomic backgrounds. From my own time as a university lecturer in a regional...
university in Western Australia, I know very well the opportunities that this legislation brings to regional universities. It will tremendously enhance the opportunity for regional universities in this country.

That is why it is so disappointing that Senator Carr would effectively call nearly every vice-chancellor in this country a liar. He says that there will inevitably be $100,000 degrees, but there will not be. And—heaven forbid!—in the committee inquiries we have had, the non-government based university and higher education sector said that the cost of their programs and degrees will go down. Why? It is because all of a sudden they will have some Commonwealth supported places. The cost of degrees will go down. It does not suit Senator Carr. He does not want to see that sector. He does want to see the sector that produces about 15 per cent of our tertiary qualifications.

This particular group over here will deny the 80,000 students who will have the opportunity to do pre-bachelor courses. Again, I know from my own experience of 15 years as a university lecturer that young people who will not be able to go to uni first off will come into the sector and do a sub-bachelor course. They will find that they enjoy it. They will graduate and they will move into the university sector. Be very careful of what the Labor Party is doing. It is destroying the future opportunities for higher education in this country. (Time expired)

Senator KETTER (Queensland) (15:25): I rise also to make a contribution in respect of the answer Senator Abetz gave to the question from Senator Carr in respect of the higher education mess which this government now appears to be in. Senator Abetz’s answer did confirm that this government is still committed to the disgraceful policies which will lead, in my view and in the view of many others, to $100,000 degrees in this country. We should never forget that, at its core, this policy is a fundamental breach of commitments that were given by the now Prime Minister and the education minister prior to and after the election. In fact, it was on 1 September 2013 on the Insiders program that the Prime Minister said there would be ‘no cuts to education’. On 17 November 2013, the education minister said, ‘We are not going to raise fees.’ We should never forget that this is a bill which is based on a lie, walking away from commitments that were given to the Australian people in 2013.

They say that a week is long time in politics. For the education minister, it seems that a day is long time. Yesterday, Mr Pyne, the education minister, was on the Insiders program fighting the good fight. I quote from what he said during the course of that interview:

I think people would give me credit for the fact that I was—never left the battlefield. I always fought right through to the end. And we will fight right through the vote, which will probably be on Wednesday, for as long as it takes. Now, what we do after that, I’m not contemplating. I’m contemplating victory on Wednesday because it’s too important not to win for students and for universities and for Australia.

The education minister seemed to be relishing his imaginary crusade. It appeared to all and sundry that victory was within his grasp. He could smell it and he could taste it. But he seemed unconcerned that 1,700 researchers would lose their jobs as part of the government’s approach. He was—and still is—completely unconcerned about the fact that he is shutting down the opportunity for thousands of young Australians to attend university.

As Senator Bilyk has indicated, even his South Australian colleague Senator Bernardi says that the move appears counterproductive. Senator Bernardi went on to say:
Playing games with our scientists and research hasn’t seemed to have done the government any favours. The education minister has retreated from the battlefield, and the researchers are safe for now. This reminds me of the disgraceful situation in which Senator Muir found himself in December of last year when he was the person who cast the final vote that allowed Scott Morrison's controversial asylum seeker laws to pass through the Senate. This is the sort of blackmail and pushed-through-at-any-cost action typical of the Abbott government. The Abbott government is continuing its dedication to taking the fair go out of Australia.

Despite the flip-flopping from the coalition, Labor will vote against these cuts to university funding and student support. Labor will not support a system of higher fees, bigger student debt, reduced access and greater inequality. We will never tell Australians that the quality of their education depends on their capacity to pay. Australians value the role our universities play not just in educating individuals but as contributors to the public good. Our universities are deeply engaged in the global research endeavour, trying to solve the world's thorniest problems, from offering insights into terrorist organisations to curing cancer. Australians know that both research and teaching are important. So, when Christopher Pyne threatens to cut research if he does not get his dud package through the Senate, Australians do not think, 'What a good idea.' They become even angrier that their representatives standing up against broken promises are being subjected to threats and blackmail. Every day, more and more people are waking up to this higher education shambles, realising it is nothing less than a desperate attempt to impose an ideological deregulation agenda that has failed in the UK, that has failed in America— *(Time expired)*

Question agreed to.

**Renewable Energy**

Senator MILNE (Tasmania—Leader of the Australian Greens) (15:31): I move:

That the Senate take note of the answer given by the Minister representing the Minister for Industry and Science (Senator Ronaldson) to a question without notice asked by Senator Milne today relating to renewable energy.

We have a situation in Australia where the renewable energy target was driving investment and jobs—more than 20,000 jobs in the solar industry alone across the country, massive amounts of new jobs as solar expands beyond rooftop photovoltaics into medium-size, out to supermarkets, dairies and the like, plus a massive rollout of wind energy, wave energy and so on. But, of course, the Abbott government does not like it.

The renewable energy target is not broken. Contrary to what Minister Macfarlane has said, it is not broken. The people who are out to break it are the government, and they are out to break it because they want to prop up coal fired generators, the old economy. In the 12 months since the carbon price was abolished by the Abbott government, coal fired generators in the Latrobe Valley have increased their production by six per cent—that is, increased emissions massively—and there have been increased profits for coal fired generators. That is the only reason this is happening. So why would the Labor Party go into compromised negotiations with the Liberals to cut back on renewable energy? I have no idea. There is no need to do it, no need whatsoever, because the jobs that are going to go are in the renewable energy sector. You are destroying jobs that are already out there, and indeed investment. There is billions of dollars' worth of investment and jobs sitting on the sidelines that cannot be invested in at the moment because of the attack on the renewable energy target.
The International Energy Agency came out last week and said that, for the first time in 40 years since it has been measuring this, emissions from electricity generation globally have flatlined in a time when there has been economic growth. There was three per cent economic growth in 2014, but emissions from electricity generation have flatlined. That is fantastic news—decoupling economic growth from energy. What is Australia doing? It is going totally backwards. How has it happened? Because China and India are investing massively in renewable energy as opposed to sticking with fossil fuels. One dollar in every $3 invested last year globally in renewable energy was invested in China—$89 billion, with jobs and investment in China. We need to have that level of investment and jobs in Australia. It is sitting on the sidelines, not investing.

This shows how little Senator Ronaldson has taken note of the debate: there is 9,000 megawatts too much energy in the system, so the best way of dealing with it is to shut down some of the old coal fired power stations like Hazelwood, like Anglesea—get rid of them out of the system. You do not deal with this problem by propping up old coal fired generators, stopping the rollout of renewables and shutting down and undermining renewable energy businesses. That is why I asked this question of the Minister representing the Minister for Industry and Science, because this is about Australian jobs and competitiveness.

Do you seriously think Australian products or manufacturers are going to be competitive in a global environment when every other country has switched to renewables, to a low-carbon economy, when we are trying to prop up old coal fired generators? You are putting people out of work now in the renewable energy sector and in the future in the old economy, because they will not compete as other countries move to more efficient systems, greater energy efficiency and more driving with renewable energy. It is bad for Australia. Everyone is now moving. If you want proof that the rest of the world is moving, just look at the International Energy Agency figures—a flatlining of emissions in a time of three per cent global growth. That tells you the rest of the world is moving.

The level of ignorance that we hear from the National Party in particular around this is such that all they want to do is destroy agricultural land with more coal seam gas, rip up more of Australia's farmland and water for coalmines and shut down renewable energy. Their future is about holes in the ground—dig it up, ship it away, lose jobs, be uncompetitive. That is not the way of the future. The way of the future is to invest in education, in research and development, in renewable energy and in a low-carbon economy. That is the future and that is why it is crazy to go around cutting the renewable energy target. I hope the Labor Party will not do that. (Time expired)

Question agreed to.

NOTICES

Presentation

Senator FIFIELD (Victoria—Manager of Government Business in the Senate and Assistant Minister for Social Services) (15:36): I give notice that, on the next day of sitting, I shall move:

That the provisions of paragraph (5) to (8) of standing order 111 not apply to various bills, as set out in the list circulated in the chamber, allowing them to be considered during this period of sittings.
I also table statements of reasons justifying the need for these bills to be considered during these sittings and seek leave to have the statements incorporated in Hansard.

Leave granted.

The statements read as follows—

APPROPRIATION BILL (NO. 3) 2014-2015
APPROPRIATION BILL (NO. 4) 2014-2015
APPROPRIATION (PARLIAMENTARY DEPARTMENTS) BILL (NO. 2) 2014-2015

Purpose of the Bill
The bills request legislative authority for expenditure to be incurred in 2014-2015.

Reasons for Urgency
The bills will propose appropriations to implement decisions for expenditure in 2014-2015. Passage of the bills in the first week of the Autumn sittings will ensure continuity of the Government's programmes and the Commonwealth's ability to meet its obligations for the remainder of the 2014-2015 financial year as they fall due. Unless new expenditure authority is in place in a timely manner, new activities of Government agencies, those administered on behalf of the Government and new activities of the Parliamentary Departments will not commence.

AUSTRALIAN RIVER CO. LIMITED BILL

Purpose of the Bill
The purpose of the Bill for the transfer of the assets and any outstanding liabilities of the Australian River Co. Limited (ARCo) to the Commonwealth in preparation for its voluntary deregistration under the Corporations Act 2001.

The Bill is consistent with the Government's commitment to smaller Government and the reduction in the number of Government bodies and the costs associated with separate governance arrangements.

Reasons for Urgency
The Government announced as part of the 2014-15 Budget Measure: "Smaller Government – additional reductions in the number of Australian Government bodies" that ARCo would wind up by 1 July 2015. Passage of the Bill in the 2015 Autumn sittings will enable sufficient time to facilitate the voluntary deregistration of ARCo and transfer all remaining workers' compensation management functions into the Commonwealth.

CUSTOMS AMENDMENT (ANTI-DUMPING MEASURES) BILL (NO. 1)
CUSTOMS TARIFF (ANTI-DUMPING) AMENDMENT BILL

Purpose of the Bills
The purpose of the bills is to implement the Government's 2013 election commitment to strengthen Australia's anti-dumping system, and a range of other reforms aimed at simplifying the system to make it quicker, more effective and more responsive to the interests of Australian businesses injured by dumping or subsidisation.

Reasons for Urgency
Enactment of several reforms by 1 March 2015 is required to benefit Australian industry by ensuring that investigations of alleged dumping against groups of countries are not prematurely terminated, reducing the regulatory burden of lodging applications, and ensuring refunds are paid to Australian businesses whose imports do not harm Australian manufacturers. Furthermore, these reforms implement the Government's election commitment to create a level playing field for Australian manufacturers and
enable stronger action against dumping. The Government has made reforming Australia's anti-dumping system a key priority so that material injury to Australian industry caused by dumped or subsidised imports can be remedied faster and more effectively.

Early passage of the bills is required to maximise savings that will be redirected to more efficient and effective services for Australian businesses. Some of these services have already commenced operation with the additional costs to government being absorbed until the legislation is passed. Swift passage will also address several live issues regarding the administration of the anti-dumping system, minimising legal risk for the Government.

DEFENCE TRADE CONTROLS AMENDMENT BILL

Purpose of the Bill
The bill proposes to amend the Defence Trade Controls Act 2012 to target more closely those who are likely to be supplying Defence and Strategic Goods List (DSGL) controlled technology. There will be a reduction in burden on those who are supplying DSGL technology through appropriate exclusions commensurate with international practice.

Reasons for Urgency
The Australian Government mandated a two year implementation period (May 2013 to May 2015) and it is essential that the bill be passed by 17 May 2015 when the transition period ends and the offence provisions come into force.

OFFSHORE PETROLEUM AND GREENHOUSE GAS STORAGE AMENDMENT (MISCELLANEOUS MATTERS) BILL
OFFSHORE PETROLEUM AND GREENHOUSE GAS STORAGE (REGULATORY LEVIES) AMENDMENT (MISCELLANEOUS MATTERS) BILL

Purpose of the Bills
The purpose of the bills is to amend the Offshore Petroleum and Greenhouse Gas Storage Act 2006 and the Offshore Petroleum and Greenhouse Gas Storage (Regulatory Levies) Act 2003 (the Acts) to:

- ensure certainty and secure tenure of title in the event of a change in the boundary between Commonwealth and State/Territory coastal waters;
- enable NOPSEMA to recover costs of performing conferred regulatory functions in waters landward of the territorial sea baseline; and
- clarify and improve the operation of the Acts.

Reasons for Urgency
If the bills do not progress, there is an increase in risks for investments made by offshore petroleum titleholders in Australian waters, in the event that there is a change in the boundary between Commonwealth and State/Territory coastal waters.

SUCCESSION TO THE CROWN BILL

Purpose of the Bill
The bill will modernise the law relating to Royal succession for Australia and will ensure that the same person is the Sovereign of Australia and of the United Kingdom (UK):

- allowing for succession regardless of gender (for any child born after 28 October 2011);
• removing the bar on succession for an heir and successor of the Monarch who marries a Catholic; and
• limiting the requirement for the Monarch's consent to marriage to the first six in line to the throne.

**Reasons for Urgency**

Australia has made a commitment to the UK to enact the legislation as soon as possible.

As soon as Australia enacts legislation, the UK will commence the reforms throughout all the Realms.

**Presentation**

**Senator Fifield** to move:

That—

(a) the Business Services Wage Assessment Tool Payment Scheme Bill 2014 and the Business Services Wage Assessment Tool Payment Scheme (Consequential Amendments) Bill 2014 be recommitted, and that consideration of the bills in committee of the whole be made an order of the day; and
(b) the committee of the whole resume consideration of the bills in the form in which they stood immediately prior to their being negatived in committee on 24 November 2014.

**Senators Carr, Lazarus, Muir, Rhiannon, Xenophon, Madigan, Lambie and Wang** to move:

That the Senate calls on the Government to commit to the allocation and release of $150 million in funding for the National Collaborative Research Infrastructure Strategy in 2015-16 that was included in the 2014-15 Budget.

**Senator Xenophon** to move:

That the following matters be referred to the Rural and Regional Affairs and Transport References Committee for inquiry and report by 10 August 2015:

(a) guidance set out by the International Civil Aviation Organisation regarding acceptable structures and processes for establishing nationality, corporate and regulatory control, and model legislation;
(b) the structures and processes recognised by Australia, including the legislative basis for those structures and processes, and how they are applied in current Australian air service agreements;
(c) the extent to which Australia's national interest is considered when accepting arrangements for corporate and regulatory control that do not invoke consensus among our international partners;
(d) the effectiveness of Australia's current legislative framework in designating and regulating Australian international airlines, including achieving a balance between parliamentary oversight and departmental discretion;
(e) the effectiveness of the transparency and review processes regarding the designation and regulation of Australian international airlines;
(f) the effectiveness of Australia's aviation and broader legislative frameworks in maximising the economic and social contribution of Australia's international airlines;
(g) the extent to which Australia's national interest needs an Australian international airline with viable standalone capacity to reach all areas of strategic interest to Australia;
(h) the extent to which Australia's aviation and broader legislative frameworks support the operations of Australian international airlines; and
(i) any related matters.
Senator Xenophon to move:
That the following bills be referred to the Economics Legislation Committee for inquiry and report by 23 April 2015:
Customs Amendment (Anti-dumping Measures) Bill (No. 1) 2015
Customs Tariff (Anti-Dumping) Amendment Bill 2015.

Senator Milne to move:
That the Senate—
(a) notes that:
   (i) the Government has committed a further 300 troops to the war in Iraq, in addition to the special forces and air force personnel already deployed,
   (ii) this increase in troop numbers was announced by the Prime Minister of New Zealand (Mr Key), rather than our own Prime Minister (Mr Abbott),
   (iii) neither the Australian Parliament, nor the Australian people, were consulted about the major increase in Australian soldiers in Iraq, and
   (iv) the latest polling from Essential Research shows that the majority of Australians disapprove of sending more Australian soldiers to Iraq; and
(b) calls on the Australian Government to:
   (i) support legislation that enables the Parliament to decide when Australian troops are deployed overseas, and
   (ii) outline the support framework it has in place to support both the mental and physical health needs of returning service men and women.

Senator Day to move:
That the Senate—
(a) welcomes the South Australian Government's Royal Commission into the Nuclear Fuel Cycle;
(b) notes that the Prime Minister (Mr Abbott) said recently 'it's important to see how South Australia can benefit from greater participation in the nuclear cycle'; and
(c) informs the South Australian Royal Commission of this resolution.

Senator Siewert to move:
That the Senate—
(a) notes:
   (i) the insensitive remarks of the Prime Minister (Mr Abbott) in which he called remote aboriginal communities a 'lifestyle choice',
   (ii) the anguish that the proposed closure of remote communities is causing Aboriginal people in Western Australia, and
   (iii) the importance of remote communities for cultural, social and emotional wellbeing, and the role these communities play in land management; and
(b) calls on:
   (i) the Prime Minister to apologise for his remarks,
   (ii) the Federal Government to reinstate the Municipal and Essential Services funding to Western Australia, and
   (iii) the Barnett Government to abandon its plan to close Aboriginal communities and to instead work with those communities to deliver essential services and support.

---

CHAMBRE
Senator Ludlam to move:

That—

(a) the Senate notes that:

(i) the Telecommunications (Interception and Access) Act requires that the overseeing Minister (currently the Attorney-General), as soon as practicable after 30 June each year, cause to be prepared a written report on the operation of the Act that relates to the year ending on that 30 June,

(ii) the report contains critical information on law enforcement access to Australians' telecommunications data which is directly pertinent to the Parliament's consideration of the Telecommunications (Interception and Access) Amendment (Data Retention) Bill,

(iii) for the past 3 years, this report has been tabled in November or December each year, and

(iv) the Government has not yet tabled the report for the year ended 30 June 2014; and

(b) there be laid on the table by the Attorney-General, no later than noon on Thursday, 19 March 2015, the report on the operation of the Telecommunications (Interception and Access) Act for the year ended 30 June 2014.

Senator Siewert to move:

That the following matter be referred to the Finance and Public Administration References Committee for inquiry and report by 18 June 2015:

The impact on service quality, efficiency and sustainability of recent Commonwealth Indigenous Advancement Strategy tendering processes by the Department of the Prime Minister and Cabinet, with particular regard to:

(a) the extent of consultation with service providers concerning the size, scope and nature of services tendered, determination of outcomes and other elements of service and contract design;

(b) the effect of the tendering timeframe and lack of notice on service collaboration, consortia and the opportunity for innovative service design and delivery;

(c) the evidence base and analysis underlying program design;

(d) the clarity of information provided to prospective tenderers concerning service scope and outcomes;

(e) the opportunities created for innovative service design and delivery, and the extent to which this was reflected in the outcomes of the tender process;

(f) the number of non-compliant projects, the nature of the non-compliance, if and how they were assisted, and how many of these were successful;

(g) analysis of the types, size and structures of organisations which were successful and unsuccessful under this process;

(h) the implementation and extent of compliance with Commonwealth Grant Guidelines;

(i) the potential and likely impacts on service users concerning service delivery, continuity, quality and reliability;

(j) the framework and measures in place, if any, to assess the impacts of these reforms on service user outcomes and service sustainability and effectiveness;

(k) the information provided to tenderers about how decisions are made, feedback mechanisms for unsuccessful tender applicants, and the participation of independent experts in tender review processes to ensure fairness and transparency;

(l) the impact on advocacy and policy services across the sector;

(m) factors relating to the efficient and effective collection and sharing of data on outcomes within and across program streams to allow actuarial analysis of program, cohort and population outcomes to be measured and evaluated;
(n) the extent of contracts offered, and the associated conditions, to successful applicants; and
(o) any other related matters.

Senator Rhiannon to move:

That the Senate—

(a) notes that:

(i) a group of western New South Wales councils, accounting for two-thirds of the state's area, are working together on a solar initiative, known as the Solar Energy eXchange Initiative (the Initiative), that if adopted would result in each local government area installing about half a megawatt of photovoltaic panels at various sites in their locality,

(ii) the Initiative involves a number of distinct projects involving different combinations of solar and storage technologies to help assess what would most effectively meet the energy needs of western New South Wales,

(iii) some of the plants would be large enough to meet the electricity demand of a typical country town of 2 000 to 5 000 people, and

(iv) the number of councils supporting the Initiative has been steadily growing with 24 councils and shires now signed onto the Initiative; and

(b) urges all levels of government to acquaint themselves with the Initiative and consider how they can support this project.

Senator Milne to move:

That the following bill be introduced: A Bill for an Act to provide for the intergenerational report to be prepared by the Parliamentary Budget Office, and for related purposes. Charter of Budget Honesty Amendment (Intergenerational Report) Bill 2015.

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

That there be laid on the table, no later than 4 pm on Monday, 23rd March 2015:

(a) by the Minister representing the Minister for Industry and Science, any correspondence since 1 July 2014 between the Minister for Industry and Science and the Prime Minister regarding the Automotive Transformation Scheme (ATS); and

(b) by the Minister for Finance, any correspondence since 1 July 2014 between the Minister and the Prime Minister regarding the ATS.

Senator Waters to move:

That the Senate—

(a) notes:

(i) that the Great Barrier Reef Marine Park Authority has repeatedly stated that the most serious threat to the reef is climate change,

(ii) that the Abbot Point coal port expansion would facilitate the export of up to 180 million tonnes of coal per year,

(iii) that nine global banks, including HSBC, Royal Bank of Scotland, Barclays, Société Générale, Deutsche Bank, Goldman Sachs, Citi, JP Morgan Chase and Morgan Stanley have refused to finance the Abbot Point coal port expansion, and

(iv) the Dump My Bank campaign by the Australian Youth Climate Coalition to help customers divest from the big four banks; and
(b) congratulates former customers of the big four Australian banks who have divested because the big four Australian banks have not ruled out investing in the Abbot Point coal port expansion which would accelerate the destruction of the Great Barrier Reef.

BUSINESS

Rearrangement

Senator FIFIELD (Victoria—Manager of Government Business in the Senate and Assistant Minister for Social Services) (15:37): I move:

That general business order of the day no. 52 (Defence Amendment (Fair Pay for Members of the ADF) Bill 2014) be considered on Thursday, 19 March 2015 under the temporary order relating to the consideration of private senators' bills.

Question agreed to.

Leave of Absence

Senator BUSHBY (Tasmania—Chief Government Whip in the Senate) (15:37): by leave—I move:

That leave of absence be granted to the following senators for personal reasons:
(a) Senator Cash for today and 17 March 2015; and
(b) Senator Lambie for today.

Question agreed to.

Senator McEWEN (South Australia—Opposition Whip in the Senate) (15:38): by leave—I move:

That leave of absence for personal reasons be granted to Senator Dastyari for today, for personal reasons.

Question agreed to.

NOTICES

Postponement

The following items of business were postponed:

General business notice of motion no. 640 standing in the name of Senator O'Sullivan for today, regarding the uranium export industry, be postponed to 17 March 2015.

General business notice of motion no. 642 standing in the name of Senator Hanson-Young for today, regarding marriage equality, be postponed to 18 March 2015.

COMMITTEES

Environment and Communications Legislation Committee

Reporting Date

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

Environment and Communications Legislation Committee—2014-15 additional estimates—extended from 17 March to 20 April 2015.

Environment and Communications References Committee

Reference

Senator XENOPHON (South Australia) (15:39): I move:
That the following matters be referred to the Environment and Communications References Committee for inquiry and report by 25 June 2015:

(a) the quantum of stormwater resource in Australia and impact and potential of optimal management practices in areas of flooding, environmental impacts, waterway management and water resource planning;

(b) the role of scientific advances in improving stormwater management outcomes and integrating these into policy at all levels of government to unlock the full suite of economic benefits;

(c) the role of stormwater as a positive contributor to resilient and desirable communities into the future, including 'public good' and productivity outcomes;

(d) model frameworks to develop economic and policy incentives for stormwater management;

(e) model land use planning and building controls to maximise benefits and minimise impacts in both new and legacy situations;

(f) funding models and incentives to support strategic planning and investment in desirable stormwater management, including local prioritisation;

(g) asset management and operations to encourage efficient investments and longevity of benefit;

(h) the role of innovation in supporting desirable outcomes and transparent decision making, including access to information and novel technologies for planning, design and implementation; and

(i) any related matters.

Question agreed to.

BUSINESS

Senate Temporary Orders

Senator FIFIELD (Victoria—Manager of Government Business in the Senate and Assistant Minister for Social Services) (15:40): I move:

That on Monday, 23 March 2015 consideration of the business before the Senate shall be interrupted at 5 pm, but not so as to interrupt a senator speaking, to enable valedictory statements to be made relating to Senator Lundy.

Question agreed to.

Senator FIFIELD (Victoria—Manager of Government Business in the Senate and Assistant Minister for Social Services) (15:40): I move:

That the provisions of paragraphs (5) to (8) of standing order 111 not apply to the National Vocational Education and Training Regulator Amendment Bill 2015, allowing it to be considered during this period of sittings.

Question agreed to.

MOTIONS

Country of Origin Labelling

Senator O'SULLIVAN (Queensland—Nationals Whip in the Senate) (15:41): I move:

That the Senate—

(a) recognises and applauds the Federal Government's move to introduce better country of origin labelling rules to give Australians a clearer understanding of where their food originates; and

(b) further recognises That the Minister for Agriculture (Mr Joyce) and the Minister for Industry and Science (Mr Macfarlane) have been tasked with developing a new country of origin labelling framework that will improve clarity for consumers.
Senator MILNE (Tasmania—Leader of the Australian Greens) (15:41): I seek leave to make a short statement.

The DEPUTY PRESIDENT: Leave is granted for one minute.

Senator MILNE: I am very pleased to see that there is now going to be a move on country-of-origin labelling, but I would encourage Minister Joyce and Minister Macfarlane to consult with those people in the parliament who have been working on country-of-origin labelling for a long time. I note in the motion that Mr Joyce is mentioned and that in August 2009 Mr Barnaby Joyce, who was a senator then, sought to have his name added to Senator Bob Brown's bill to require Food Standards Australia and New Zealand to develop and approve food-product labelling standards. Of course, there have been several occasions since, with three bills of my own, where we have struggled to have Minister Joyce to support them. I would welcome Minister Joyce speaking to the Greens on this, since we have considerable experience in it.

Question agreed to.

Tibet

Senator HANSON-YOUNG (South Australia) (15:42): I ask that general business notice of motion no. 641 standing in my name for today, relating to Tibetan political prisoners, be taken as a formal motion.

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

Senator Fifield: Yes.

The DEPUTY PRESIDENT: There is objection to formality for this motion, Senator Hanson-Young.


The DEPUTY PRESIDENT: Leave is granted for one minute.

Senator FIFIELD: The Australian government does remain concerned about the human rights situation in Tibet. Australia has consistently raised its concerns with Chinese counterparts in Canberra and Beijing during the 15th Australia-China Human Rights Dialogue last year. The Australian government urged China to exercise restraint in managing their security situation in Tibet; we also urged China to protect the cultural, linguistic and religious heritage of Tibetans. Established by the Howard government, the dialogue allows for a frank and constructive exchange of views at senior levels. It is important that matters such as this are handled in a mature and sensitive manner. I should indicate that the government has denied formality in accord with the convention that complex foreign affairs matters are not best dealt with through a binary vote on a motion such as this.

Suspension of Standing Orders

Senator HANSON-YOUNG (South Australia) (15:44): Pursuant to contingent notice, I move:

That so much of the standing orders be suspended as would prevent me from moving this general business notice of motion no. 641.
I find it convenient of the government to simply say that, because this is a matter of foreign affairs—because this is a complex international issue—somehow this place cannot have a genuine discussion, or even raise these issues. There should be an opportunity to discuss these issues in this place, and to have a genuine robust debate about where it is that Australia fits in, particularly in our region.

We know that human rights abuses are going on towards Tibetans in China. We know that they are happening under our watch. We know because we have raised these issues previously with the Chinese government. To simply say that the Senate should not discuss it just does not cut it. It is a cop-out; an absolute cop-out. For months and months, the local Tibetan community here in Australia have been asking very serious questions of this government, and of the foreign affairs minister, as to exactly what Australia is doing about the human rights abuses that the Chinese government continues to commit on the local Tibetans in that province. And we know that those questions continue to go unanswered. We know that journalists are stopped from visiting the provinces to find out exactly what is going on. We know that there is an extreme level of abuse and intimidation of Tibetans in their homes and in their local communities. This motion is specifically in relation to political prisoners, whose situations we know have been documented. Amnesty International, Human Rights Watch, and many other organisations internationally have well-documented references to the fact that these political prisoners are being abused. If countries like Australia do not start standing up and calling out human rights abuses where we see them, then those abuses will continue to happen—unchallenged. When we see something that is wrong, as a fair-minded decent country in our region we have a responsibility to stand up and call it out—to call out wrong behaviour, including human rights abuses.

I know and I understand that, in the context of our relationship with China, it is difficult—because we have trade obligations, and we have other types of accords with the Chinese government. Of course we do. But friends must be able to call each other out when something wrong is being done. We must ensure that we can stand up for what is right—not be silenced because of our other interests; particularly when they are simply that it is been put in the too-hard basket because of the commercial interests of our relationship with China. Beijing should not be dictating to our country as to whether or not we accept human rights abuses that are happening in our region. We in Australia, as a strong democracy and as a leader in our region for fairness and decency, have a responsibility: when we know that dozens of political prisoners are being abused and denied their rights; and are being jailed simply because they have spoken the name of the Dalai Lama, or because they have distributed some information about the local Tibetan culture and community. Those political prisoners need a voice. And we are the right country to help them, and to stand up and speak out. Our region only becomes a safer place if we lead by example, and do not stay silent in the face of human rights abuses.

I find it abhorrent that in the Senate there is now an agreement between the Labor Party—the opposition—and the coalition government that they simply shut down debate in this place when it is too difficult an issue for them to handle. The idea that we cannot discuss or debate foreign affairs issues is madness—absolute madness. We know that many of our constituents across the country—whether they were born here or whether they are descendants of people from other parts of the world; regardless of where they have come from and where they were
born—want Australia to be involved in our global community, and that means being able to
have these debates. (Time expired)

Senator FIFIELD (Victoria—Manager of Government Business in the Senate and
Assistant Minister for Social Services) (15:49): Mr Deputy President, I can indicate that the
government will not be supporting this motion to suspend standing orders. As I indicated in
my short statement a little earlier, the government does not believe that formal notices of
motion are the appropriate mechanism to prosecute foreign relations. Let me reiterate that the
Australian government does remain concerned about the human rights situation in Tibet, and
that Australia has consistently raised its concerns with its Chinese counterparts in Canberra
and in Beijing. The Australia-China Human Rights Dialogue is a forum where the Australian
government puts its views forward; that is an important forum for frank and constructive
exchanges of views at a senior level. The government is of the view that when it comes to
matters of foreign relations, notices of motion are not the most appropriate mechanism
through which to pursue those.

Senator MOORE (Queensland) (15:50): The Labor Party has a longstanding convention
that we do not discuss complex and contested issues of policy, particularly around foreign
affairs, as a notice of motion process. This is not new. Senator Hanson-Young knows it is not
new. It is a longstanding policy. There are opportunities in Senate—although perhaps not
enough, Mr Deputy President—to have the kind of debate which is necessary on issues such
as the one that Senator Hanson-Young has brought before us in her notice of motion today.
There are opportunities, in general business and in other elements of our debate, to have an
appropriate discussion around something as important, as sensitive, and as complex as the real
issue of human rights abuse for Tibet. But notices of motion are not the methodology. They
never have been. We have reiterated this position on a number of occasions over the years. It
is certainly frustrating that we are put in the position of having this kind of discussion—
allowing people to have a five-minute opportunity to put their position clearly—to make some
kind of pretence that only certain people in this place feel strongly about these issues.

The Senate has rules; the Senate has processes. We should work together to try to ensure
that we work within those processes so that issues as important as this are not used as a
pretence for a spurious argument or to lay blame on others in this place for perhaps not having
as important and as real concerns. We believe that we should be able to look at processes
within the Senate rules so we are able to give appropriate time and consideration to such
issues. This is not the first time Labor have had to make this statement, and we will continue
to do so. We would expect that perhaps we could have opportunities before having a notice of
motion on the Notice Paper brought to this process to look at where we can have appropriate
discussion.

Senator MILNE (Tasmania—Leader of the Australian Greens) (15:52): I support the
suspension of standing orders to have a debate on this because if not us then who? If not now
then when? I hear all this about there being appropriate processes—

Senator Moore interjecting—

Senator MILNE: Well, there are not. They do not happen. When is there a debate in this
place on the human rights abuses that are going on in Tibet? When can these serious issues
actually be debated? I come particularly to the visit here by the President of China. In his
speech in the House of Representatives and in the Prime Minister's speech of welcome human
rights did not get a mention. Yet, if we are a country that stands up for human rights, that is a period in which it should have been mentioned instead of what did get mentioned—which was, of course, the free trade agreement. That is what everyone wants to talk about: how we can engage in trade. The point here is that you have to be able to stand up for human rights as well. You have to be able to say what the situation is and ask questions of the countries concerned.

But, as I said this morning, Australia has not had a very good reputation in this regard in recent years. The fact that we have been mentioned as breaching the torture convention just demonstrates where Australia now finds itself. There are very few people who are prepared to take on China. One of the things that we in this parliament should be doing is standing up to the Chinese over their abuses in Tibet.

The report that is in question here, Torture and impunity: 29 cases of Tibetan political prisoners, shows that 14 people died in custody. There should be an inquiry by the Chinese government into cases of custodial death and extrajudicial killings. That is what Australia should be asking of the Chinese government—to have that inquiry into those deaths in custody and extrajudicial killings that have been going on in Tibet with regard to this particular report on prisoners in Tibet. But, instead of that, Australia remains silent.

If we are to believe the government, then perhaps it will produce for us the remarks it has made on the Chinese government's response to the convention against torture. What has the Australian government said? Or is it that we do not say anything anymore because we in Australia are involved in breaches of the very same convention against torture and if we were to criticise others then we may invite the same criticism ourselves? It is time Australia recognised that if we stand up for human rights we have to stand up for them both here and everywhere around the world that they are being breached and not pick and choose according to who our trade partners are at the time.

I think it is a bit rich to suggest there are opportunities to discuss this. The government runs a mile from any discussion of human rights abuses with regard to any of our trading partners or allies. It is about time that we actually stood up and spoke in global fora on human rights. We could start with Tibet and follow up with Sri Lanka, instead of being complicit and turning a blind eye in the case of Sri Lanka, as we have done in the last 12 months.

The DEPUTY PRESIDENT: The question is that the motion moved by Senator Hanson-Young be agreed to.

The Senate divided. [16:01]

(The Deputy President—Senator Marshall)

Ayes .................11
Noes .................33
Majority.............22

AYES

Di Natale, R
Hanson-Young, SC
Ludlam, S
Milne, C
Rhiannon, L
Rice, J
Siewert, R (teller)
Waters, LJ
Whish-Wilson, PS
Wright, PL
Xenophon, N
Question negatived.

MATTERS OF PUBLIC IMPORTANCE

Higher Education

The DEPUTY PRESIDENT (16:04): A letter has been received from Senator Moore:

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

The Abbott Government's shameful attempt to hold the jobs of 1,700 scientists and the future of Australian research hostage in pursuit of university fee deregulation.

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 LINES (Western Australia) (16:05): What have we seen today but yet another backflip by the Abbott government! To us on this side, it just demonstrates the internal dissent within the Abbott government and the instability of the Prime Minister. He is concerned with one thing: clinging to his job as Prime Minister. In all this internal dissent and ongoing back-flipping which is being played out between the would-be Prime Minister, Mr Turnbull, and the actual Prime Minister, Mr Abbott, the losers are ordinary Australians. With this continual back-flipping, the government are hurting the Australian public, who do not know if something is going to go ahead or not go ahead. At the moment, that indecision is being thrust at the many, many Australian university students, who are still facing, well into the 2015 semester, the threat of $100,000 degrees.
Despite Mr Pyne saying that the 20 per cent funding cut to universities is off the table at the moment, he still intends to go ahead with it. Where have we heard that before? I remember: it was the GP tax, when suddenly we saw a bit of a backflip before Christmas and then we saw another backflip. But what do we hear from the Abbott government? We hear that they still want to go ahead with the GP tax. It is still there on the table. They just have to find some sneaky, manipulative way to get it through the parliament. It is exactly the same with the 20 per cent cut. Minister Pyne is saying he still wants to pursue that 20 per cent cut. He has just got to find that sneaky, manipulative way to get it through the Senate.

Last week we had scientists being held to ransom. What a despicable thing to do—to try and threaten and blackmail 1,700 scientific jobs in this country because the Prime Minister and Minister Pyne could not get their way because of the dissent in the Abbott government about not being quite sure what it is they are doing. It was played out last week at a Senate inquiry we had into higher education, where we had those scientists from NCRIS appearing. I have got to say I felt quite sick in the stomach to hear that people had already left their jobs, that Australia has already lost some scientists because of the indecision and the internal dissent of the Abbott government. Some have already gone. We had Senator McKenzie say to Mrs Rosie Hicks, the CEO of the Australian National Fabrication Facility:

What was your reaction when the government— the current government — managed to find the $150 million to keep NCRIS going while a review of infrastructure was commenced?

Mrs Hicks replied that it was absolutely critical— something Labor has been saying. We recognised that the funding was critical, because we had funding there. But Mrs Hicks went on to say that it had not been released. I do not know which planet Senator McKenzie has been on, but she seemed a bit surprised by that. She said:

But they—

meaning the government—

have found the savings.

Mrs Hicks went on to say:

But it has not been released. There was an announcement made in the May budget, but the funds have never flowed.

Senator McKenzie said: 'That's because we had to find this $150 million. It was contingent upon the government's higher education reform package passing.' Senator Carr interjected and asked why that was so, and Mrs Hicks said that that was not her understanding at the time.

And what do we have today? We have this complete backflip from Minister Pyne, who finally admits that, yes, the two were not related. The higher education reforms and the taking-away of funding for 1,700 science jobs were not related. It was just a threat to try and put some pressure on the Senate, to say to the Labor Party and others who were opposed to this bill: 'If you keep your opposition up, then 1,700 scientists will lose their jobs.' We found again today that that is simply not true. It is another con job by the Abbott government, another con job to try and hoodwink the Australian people. Well, they are not fooled. But the damage has already been done, because we heard very clearly at that Senate inquiry on Friday, 6 March, that some scientists have already left their jobs and that some of the programs which were in place have been wound down.
I cannot believe that the Abbott government would stoop to playing politics at such a level, to try and make Australia into some kind of place where scientific endeavour is not pursued with absolute vigour. Who would do that? Only a government on its knees, only a government desperate, only a government that is full of internal dissent, would play those sorts of tricks on the scientific community in Australia. We have been funding science in this country for a very long time, and all we have had from the government is backflips and misinformation. Minister Pyne tried to claim that Labor did not have any money in the kitty for this, and that is completely untrue. Minister Pyne claimed last week that NCRIS funding was part of the reform bill. Well, either it is or it is not, and Labor was saying all along that it was never part of the reform bill. Well, guess what; today the minister in charge, in this supposedly adult government, admits, 'Yes, that is correct; it's not part of the reform bill,' and we see this backflipping. Of course, we are really happy about that. We are very happy the truth is finally out there that this funding for NCRIS is not in any way connected to the higher ed reform bill. But that does not detract from the harm the Abbott government have done already to Australia's scientific community. I hope they are ashamed of their actions, because they should be ashamed of what they have done to science in this country. To make it a political football in the way that they have done is an absolute disgrace—and then they tried to deny that, tried to say that the higher ed reform bill and the NCRIS funding were somehow absolutely linked. And they have given people such heartache over 1,700 scientific jobs, when we have had, since 2004, over $2 billion worth of funding to NCRIS and over 35,000 Australians and international researchers using NCRIS facilities, with 27 national facility employers employing those 1,700 highly skilled scientists.

All of that the Abbott government put at risk because they want to play political games, because their government is in such disarray because there is a squabble over who wants to be Prime Minister. We are seeing this being played out over and over again—these disgraceful backflips, risking Australia's international reputation when it comes to science, risking 1,700 jobs. Very clearly we heard at the Senate inquiry on that Friday that some have already left, so we have already had a brain drain because of this disgraceful coupling—this completely untruthful coupling—of the higher ed bill with the NCRIS funding. The Abbott government need to be held accountable for that, and certainly Labor will hold them accountable. The threat made to Australian scientists will not be forgotten—making a political football out of a community that is normally immune to this, that gets on and does its job and does valuable research for Australia, that upholds our international reputation. We heard, on that Friday, scientists telling us that they would have to go offshore. What the Abbott government now has done to this community of scientists is to put doubt in their minds. Who is to say that Minister Pyne will not turn around next week and make some other pronouncement? The Abbott government simply cannot be trusted when it comes to higher education. It cannot be trusted when it comes to health. It cannot be trusted when it comes to any part of life that makes Australia work. We have seen nothing but broken promises from this government and now we have the scientific community having to watch their backs—having to look at where their funding comes from with absolutely no commitment from the Abbott government about science. Perhaps that is why they did not have a science minister. Perhaps this is what they planned all along. It shows, again, their total disregard for our
scientific community that there is no minister there—that they can just be pulled along, pushed here and pushed there, at the political will of the Abbott government and a Prime Minister so desperate to hold onto his job that he wants to threaten scientists. (Time expired)

Senator BIRMINGHAM (South Australia—Assistant Minister for Education and Training) (16:15): Senator Lines wants to talk about trust and what people can be trusted with. Yet again we see, through her contribution, that the Labor Party is unable to be trusted with money, unable to be trusted with sensible budgeting decisions and unable to be trusted with the nation's finances. It seems that yet again there is a need to explain to Senator Lines and those opposite. In relation to any spending decision this government takes, when we decide to commit to new and additional spending, we work through a process of finding savings to fund that spending—which should be the prudent approach of any government. We decide where the money will come from before we decide to embark upon new spending. The case in relation to the National Collaborative Research Infrastructure Strategy research facility was that, when we decided in last year's budget that they were so important that we needed to find funding for them to continue—because the Labor Party had left a funding cliff, effective from 30 June this year—the way to fund them and find the additional spending required was through the savings contained in our higher education reform package. We identified the savings and came up with how we would fund NCRIS into the future.

Today we have decided that because of the fundamental importance of these higher education reforms, and so that there can be no distraction from their consideration, we will decouple them. We will find other means to find the savings and provide funding for NCRIS into the future. But let us firstly, in relation to NCRIS, be under absolutely no illusion: those opposite created the problem to start with. We have this remarkable situation where Senator Carr keeps putting out statements. He even says, with a straight face, 'The Labor government left 21 months of secure funding for NCRIS.' I do not dispute that. The budget did have, at the change of government, 21 months of forward funding for NCRIS until 30 June 2015. After that, zip—zero, diddly-squat, nada, nothing—was in the budget for NCRIS going forward. The Labor government left a funding cliff.

As everybody in this place appreciates, when the budget is handed down each year there is a four-year forward program in the budget. When we took office, there were 21 months of funding for this program that the Labor Party is standing on their high horse about now. There were also 27 months of nothing—27 months, in the forward four years, in which there was no funding. There were 21 months of funding and 27 months for which there was no NCRIS; there was no research infrastructure program of this nature being operated.

So we budgeted, in the last budget, for $150 million. We have also put in place arrangements for the review of research infrastructure needs, chaired by Philip Marcus Clark, which is being undertaken at present to ensure that by the time we get to the end of that extra 12-month extension—the financing that covers the gap the Labor Party left in place—we have certainty around how to fund research infrastructure sustainably into the future, without the type of funding cliffs and uncertainty the Labor Party left in place by not actually having any forward funding in this regard.

But far bigger than the future of NCRIS, important though it may be, is the future of the higher education sector in Australia. That is why we have made the changes we have today—to ensure we can focus the Senate's attention and the nation's attention on these sweeping
reforms to higher education we are proposing. They build on the positive legacy of previous Labor governments. They build on the Hawke government's decision to introduce HECS. They build on the Gillard government's decision to open up access to universities. It is a fundamental change we are applying now, to build on that opening up of access to universities by saying we will allow universities to be masters of their own destiny. If any institutions in this country are smart and clever enough to be able to set their own fees, run their own budgets, innovate, specialise, compete with the rest of the world, strive to be among the best in the rest of the world and operate under their own terms, surely it is the nation's 41 universities. Surely they do not need anybody in government setting all the regulations and details of how they will be financed and how they will operate.

Certainly, the approach we are taking is welcomed by the nation's universities. Those opposite and those on the crossbench would all do well to heed some of the comments from the university sector in relation to the announcement made today. Universities Australia, the peak body representing all 41 universities, have made it clear that all the qualifications they had in relation to the original proposal before the Senate have now been removed. They unequivocally want to see the legislation before the Senate pass the Senate. That is critically important. Vicki Thomson, the chief executive of the Group of Eight, has said:

This legislation is critical to the future of quality teaching for students, and quality research for our nation's economy. For it to fail is unthinkable. These concessions by the Government should now pave the way for the Bill to pass unimpeded …

The Innovative Research Universities, or IRU, representing a particular group of the nation's universities—Charles Darwin University, Flinders University, Griffith University, James Cook University, La Trobe University and Murdoch University, have said they:

…call on the Senate to pass the Higher Education and Research Reform Bill 2014 following the Government's decision to focus on the important reforms to university funding and student charges it has proposed …

We need the new approach the Bill offers.

There is near universal support from across the university sector. We had, coming into today, 40 of the 41 vice-chancellors all supporting change. TAFE Directors Australia support the passage of this bill because they recognise the extension it provides in Commonwealth support to some of the non-university sector. The elimination of some of the fees that apply to loans beyond the traditional HECS loan is important. They all recognise the extension of access this legislation provides to those on pathway courses, to those undertaking diplomas. It will further strengthen the opportunity we have for the nation's students, be they from disadvantaged backgrounds or poorer income backgrounds, who do not necessarily get the highest ATAR, to be able to access a pathway course or a diploma course to provide the bridging opportunity to study then at bachelor degree level at university.

The new Commonwealth scholarship scheme this legislation will set up will provide further opportunity for students, especially for Australians from disadvantaged backgrounds, to maximise their involvement in the higher education system and access opportunities particularly for coverage of other expenses in their pursuit of higher education. We have already adopted other amendments to the package developed in consultation with some of the crossbench to maintain CPI on HECS and to provide an interest rate pause for new parents as proposed by Senator Madigan.
If you look at the reforms this government is proposing, they provide a world of new opportunity for more people to be able to access higher education in Australia. The reforms provide more pathways with more Commonwealth support to access higher education compared with those opposite and Senator Carr's desire to reintroduce his so-called compacts, which is code for capping and which is also code for Senator Carr—were he to be the higher education minister—to sit down with each of the nation's 41 universities and say, 'I, Senator Carr, know best. I can set up a deal with you where I dictate how many students you will take into each course, the fees that will be provided.'

There is a whole world of new regulations that the Labor Party wants to apply to the nation's universities rather than our policy package, which is a whole world of new opportunity for more people to access higher education, still with the protection of deferred income contingent loans that mean not one student going into a bachelor place in an Australian university need pay one cent up-front to access that place.

Those on board should heed the message from the university sector today and come on board with these reforms. (Time expired)

Senator RHIANNON (New South Wales) (16:25): The Greens support today's matter of public importance on the Abbott government's shameful attempt to link the job security and research of 1,700 scientific workers with the government's attempt to push through very dangerous university deregulation. We now know that Minister Pyne has been lying to the Australian people—

The ACTING DEPUTY PRESIDENT (Senator Sterle): Senator Rhiannon, I would ask that you choose your words carefully and I would ask you to withdraw.

Senator RHIANNON: Thank you, Acting Deputy President Sterle, I withdraw that statement. Clearly there have been attempts by the minister to embarrass, to intimidate, to blackmail the members of this place, particularly the crossbenches—

Senator O'SULLIVAN: Mr Acting Deputy President, I rise on a point of order. I do not think you could make a more serious assertion on the character than blackmail. I would ask that you ask the senator to withdraw that and to be careful with her language.

Senator Moore: Mr Acting Deputy President, I rise on a point of order. There has been a long history in this place of fairly dynamic debate and the word 'blackmail' has been used in numerous debates in this place. In fact, if we had a chance to call upon the Hansard, there would probably be so many times that term has been used that we could not even begin to count them. I do not accept that there is a real point of order in this case.

The ACTING DEPUTY PRESIDENT: As we are entering this new world of sharing all this love, Senator Rhiannon, I would ask that you do withdraw the word 'blackmail' because it was pretty direct. I would ask that you withdraw, Senator Rhiannon.

Senator RHIANNON: I understand that I do not have to withdraw the word because I have sat in this chamber many times hearing that word. I withdrew the word 'lying' but not the word 'blackmail'. I have used that myself and I have heard it in debate many times.

Senator Birmingham: Mr Acting Deputy President, I rise on a point of order. Senator Rhiannon was making a direct reflection on a member of the other place. That direct reflection should be withdrawn.
The ACTING DEPUTY PRESIDENT: Senator Birmingham, it is not very often you and I are on the same page but on this we are. Senator Rhiannon, I have ruled and I would ask that you withdraw.

Senator RHIANNON: Mr Acting Deputy President, could you explain the consequences if I do not withdraw because it seems there is an inconsistency with your ruling compared with the rulings that I have heard in this place at other times.

The ACTING DEPUTY PRESIDENT: Senator Rhiannon, quite simply, you will be defying my ruling as the chair.

Senator RHIANNON: What are the consequences of that, please?

The ACTING DEPUTY PRESIDENT: Senator Rhiannon, the consequences are that you could be removed from the chamber.

Senator RHIANNON: Thank you for your advice, Mr Acting Deputy President. I withdraw that remark. Minister Pyne has shown some very concerning behaviour. Many of his actions could be seen to be similar to attempts to blackmail crossbenchers in this place. Why we know this—

Senator O'Sullivan: Mr Acting Deputy President, I rise on a point of order. The senator's continued reference has the same strength as—

Senator Moore interjecting—

Senator O'Sullivan: Well, I have a point of order. You will be able to—

The ACTING DEPUTY PRESIDENT: Senator O'Sullivan, ignore the interjection.

Senator O'Sullivan: It has the same strength, it is an insidious assertion and she should withdraw it as she did with the direct assertion.

The ACTING DEPUTY PRESIDENT: Senator O'Sullivan, as I was talking to the Leader of Opposition Business in the Senate I did not hear it. I will check the record. There is no point of order at this stage.

Senator RHIANNON: We know this is consistent with the minister's behaviour because of what has happened today. Now we have learnt that there is no link with the $150 million allocated for the NCRIS—the national collaborative research infrastructure. Now that money is secure—only secure for one year. We have heard Senator Birmingham use the word 'decouple'—that is their word today—to make out that there is a separation here and trying to make out that there is a change to the higher education bill. There is no change. It is the same legislation, just split into two parts. University deregulation, with all the dangers and all the problems, is still alive before this chamber—as are the other measures with regard to the cuts to the community grants scheme.

So, we should not be conned by what this minister is doing. Minister Pyne has clearly taken up his place within the Abbott government bunker, really trying to ensure that they protect this government. Why has the minister done this today? Because this bill was at the point of being defeated for a second time. And it could have been an even more decisive defeat, with more crossbenchers voting with the Greens and Labor against this legislation that would have such a far-reaching and damaging impact on our higher education system. So the minister has come into play today, making out that something has changed and, again,
misleading the public and people in this place when in fact he is still on the same tack, trying to avoid a decisive vote. He actually promised that as recently as Sunday, saying that the vote would occur on Wednesday when we could deal with this bill. But, again, clearly that would be embarrassing for this government and they have tried to change that.

So let us remind ourselves of why we need to have this debate today. The research that is undertaken by these scientists at the 27 research centres across this country is absolutely critical. It should never have been used by the minister in this way. This is not just something that can be funded on a yearly basis. What we should have seen from the minister when he made his statement today about this so-called—to use his word—‘decoupling’, where he said, 'Yes, that funding is assured,' was that the funding was for the long term. It should have been consistent with what is needed to ensure that this research can go ahead, with the confidence that it will be there for the long term.

Again, I am pleased to be able to participate in this debate that really does detail the damaging policies of this government to the higher education sector. (Time expired)

Senator SINGH (Tasmania) (16:33): Anyone would think, listening to Senator Birmingham's contribution to this debate, that his head has been in the sand today and that he has had absolutely no understanding or idea of what has gone on with his Minister for Education, Christopher Pyne. He clearly backed down, not only after the pressure from an open letter to the Prime Minister earlier this month but after pressure by a range of research organisations, known as the National Research Alliance, against this government's deregulation of universities and its effect on research—scientific research at that.

On top of that, Labor's notice of motion that was tabled today called on the government to immediately release the research infrastructure funding that it was holding hostage. That motion, of course, was a motion that Labor had support for from the crossbench. It had support from senators Lambie, Lazarus, Muir, Madigan, Rhiannon, Wang and Xenophon. After all of that pressure, finally Christopher Pyne came to his senses and decided that the intimidation that he had placed on the Senate—particularly on the crossbench—over his very unfair and unnecessary policy for $100,000 university degrees and holding the research infrastructure funding to ransom in doing so—limiting 1,700 scientific research jobs through that process—was a bad idea.

Senator Birmingham seems to be completely unaware that this has gone on today—that this backdown has occurred today. I think that I could not put it any better than journalist Laura Tingle put it today, when she said:

Education Minister Christopher Pyne's attempt to blackmail the Senate by threatening scientific research funding if the higher education changes are not passed this week has backfired spectacularly, ...

That is exactly what has happened. It has backfired spectacularly, with the crossbench joining Labor to insist, through that notice of motion, that the funding be assured before the Senate considers the package.

It is pleasing to see that Christopher Pyne has come to his senses, but we know that he has not come completely to his senses when it comes to his backdown. What Minister Pyne should learn from today is a lesson, not just of backing down on the research funding that he has now freed from his education reform package but he should go all the way and back down on his proposal for deregulation. Why? Because it is not just Labor that opposes these
proposals, and it is not just the crossbench that rejects this proposal, it is the Australian people—particularly students and those who work in the university sector.

Australians oppose these measures. They oppose cutting public funding to undergraduate courses by up to 37 per cent. They oppose the extraordinarily expensive university degrees that will come as a result of fee deregulation. They oppose the Americanisation of our world-class university system. They oppose these things because they understand the value of our universities and the value of higher education—and the contribution that those with degrees then contribute to our Australian society, the skills that they learn there.

Despite Minister Pyne's backdown today—releasing the 1,700 jobs he was holding to ransom, trying to intimidate the crossbench to support his education package—we know that the Abbott government did try very hard, up until around lunchtime, to shamelessly threaten to destroy the future of scientific research in Australia unless it got its plans for its $100,000 university degrees through this Senate. That is no way to govern. That is certainly no way to negotiate with the crossbench.

How absolutely absurd—for a minister of the crown to approach his portfolio with intimidation, with blackmail! It is absolutely ridiculous. That is why Labor will vote against these cuts to university funding and student support. Labor will not support a system of higher fees, bigger student debt, reduced access and greater inequality; because that is exactly what Minister Pyne's package is all about. We will never tell Australia that the quality of their education depends on their capacity to pay. That is not the Australia we live in. That is not the ethos of a fair go that we know Australia to stand for. And that is why Labor will not support this package.

When Christopher Pyne threatens to cut research if he does not get his way—when he has a tantrum, as he does—Australians do not think: 'Gee, that's a good idea! What a good idea! Let's cut scientific research by 1,700 jobs!' No. They become even angrier; their representatives are standing up against the broken promises; they are being subjected to threats and blackmail. This is not something that the Abbott government took to the people. This is something again that has been thrown on the people of Australia, thrown on the crossbench, with intimidation and threat. As I said, that is no way to govern for this country.

Labor's position remains very clear. Since the budget we have seen that it is not only Labor that opposes the government's unfair, short-sighted higher education package; it is the broader Australian public. I think the biggest summation of this kind of charade that has gone on with Christopher Pyne over this last month really comes back to that open letter from the National Research Alliance to the Prime Minister about 'Australia's national public research infrastructure preparing for shutdown', as it is titled. A number of those national researchers, a number of those scientific researchers, come from my home state in Tasmania. IMOS, for example, is a recipient of the NCRIS and would be deeply affected by the cuts that Christopher Pyne threatened the crossbench with.

I stand with Labor and oppose this bill. (Time expired)

The ACTING DEPUTY PRESIDENT: Before I call on Senator Ryan, I remind all senators that when referring to those in the other place, they should use their official titles, s'il vous plaît.
Senator RYAN (Victoria—Parliamentary Secretary to the Minister for Education and Training) (16:41): Mr Acting Deputy President, your French is marginally better than mine.

The ACTING DEPUTY PRESIDENT: Merci.

Senator RYAN: Developments today where the minister ensured that this important national infrastructure—NCRIS, as it is known—is going to continue for another year, after Labor left it unfunded, actually make a number of the pre-prepared speeches of those opposite rather irrelevant.

Underlying this, is a much more important issue. Underlying this, there is a truth that every dollar of public expenditure actually has to come from somewhere. It has to come from taxes or it has to come from borrowings. There is no magic money tree growing in the middle of Parliament House, despite what some may think, that ensures we can fund any and all projects that we desire. Indeed, there are many more worthy projects than any government ever has the resources to directly fund.

Every dollar has to come from either taxes or borrowings. Every dollar will eventually have to be covered by taxpayers. It either gets covered by taxpayers now, through paying tax on a weekly, monthly, quarterly or annual basis, or it gets paid by taxpayers in the future, with the additional burden of interest, which seems to have been the budgeting approach of the Greens. We know for a fact it was the budgeting approach of the previous government.

This is actually at the very core of this debate. Bert Kelly called it a trade-off. In modern budget parlance, it is referred to as an offset. In an era where we have a record deficit inherited from those opposite, in an era where the amount of money that is being borrowed not only to fund the operations of government but to actually pay the interest on previous handouts and waste and operations of government, we cannot simply keep adding to the public burden. We cannot continually say we will borrow more or, mythically, we will keep taxing more and more.

In a small business, if you want to invest in one part of your business, you are not going to have the money to invest in another part, or in some cases maybe you are not going to have the money to even take the family holiday. Every household knows that buying the new car might mean putting off the holiday. In more basic sacrifices, paying the school fees might mean you do not have as much discretionary income somewhere else. This basic concept is something that is utterly lost on those opposite. They offend the Australian people when they pretend that no sacrifice is necessary and that the money can come from anywhere they wish.

The ALP and the Greens like to pretend that no sacrifice is necessary to actually designate someone receiving public funds. In this sense, both of them are in a competition for the arrogant status vote, the idea of everything worthy must be undertaken by the public sector. There is some fantastic support for research and higher education in this country that comes from the non-government sector. Government plays a critical role, and I will speak about this government and the coalition's record about that later on. This idea that everything that is worthy must be funded by the taxpayer, particularly when we are in an unsustainable deficit situation, does no service to the importance of the projects that they talk about.

The ALP and the Greens are competing in the championship of the politics of grievance or for the trophy for magic pudding economics! Both of them refuse to outline where the resources for important projects come from. The refusal of the ALP to provide ongoing
funding for NCRIS illustrates the hollowness of their commitment and the hollowness of their words as they read out their speeches in this chamber. The truth is that expressions of commitment and support, without outlining the source of the revenue—where this will come from and how it will be paid for in the longer term—are meaningless. Labor’s commitment to this program, or lack of it, was shown when we came to office: there were less than two years of funding for NCRIS left in the budget. There were more than two years of NCRIS unfunded by those opposite. There were crocodile tears and magic-pudding economics. They could print a bumper sticker saying: ‘I care about researchers in Australia, I think research in Australia is critical, I think all of these institutions are critical; but when I was in office I did nothing to ensure they had ongoing funding.’ They did nothing whatsoever.

Senator Wright interjecting—

Senator Polley interjecting—

Senator McKenzie interjecting—

The ACTING DEPUTY PRESIDENT: Senator Ryan, I ask you to resume your seat. Ladies, please.

Senator McKenzie: We are senators.

Senator Ryan: True commitment to important programs like NCRIS and proof that these are not crocodile tears would have been illustrated by different behaviour when they were in government, and everyone in the sector knows it.

There is a review going on of our national research infrastructure at the moment, which is one of the reasons this funding has been extended for one year. That review is universally supported by the research sector—universally supported. The problem we have, again, is dealing with difficult budget situations because no-one on the other side of the chamber is willing to outline how all these worthy national projects can be funded. We will hear about the mythical magic pudding of multinational tax avoidance. It is important to tackle, but it will not address the unsustainable budget deficit we inherited from those opposite. At its core it is about playing the politics of grievance and avoiding the difficult decisions necessary. Whether in a household, a small business, in a big business or in the public sector, ‘A dollar I spend here is not a dollar I can spend elsewhere.’ There is an opportunity cost to everything. There is a trade-off to everything.

The challenge we on this side of the chamber have is that we must clean up the mess left by those opposite. Today, part of the mess in our research infrastructure was addressed by the minister when he made the announcement to guarantee an extra year’s funding—a year of funding that, despite all the bleating from those opposite, was never provided for by them when they were in government.

I have visited some of the NCRIS facilities. They are fantastic. Every Australian knows about the high quality of the Australian research sector. While not trained in it, I did do a bit of work with people in health and medical research, and they are genuinely world leading. But they know that those opposite had a chance to fund this infrastructure on an ongoing basis. They know that the program was started by the Howard government. They know that those opposite did not do anything to make it a permanent program, nothing whatsoever. I am half-tempted to get all the great minds of NCRIS—the mathematicians, the biologists, those who use the fancy electron microscopes that I have seen but would never know how to use—
to try and figure out if they can find the goose that lays the golden egg that those opposite seem to think we have locked somewhere in this building that can continually keep producing the resources we need to pay off our debt, to pay the interest bill and to fund worthy national programs!

You do not care about worthy national programs if you do not make the budget sustainable. You do not care about research and you do not care about our scientific infrastructure if you put the budget in a position where research is unfunded and the budget is unsustainable. Today the government addressed yet another mess left by Labor. Labor’s words, as well as those of the Greens, are nothing but crocodile tears, given their performance in government, when they hatched all their secret deals.

**Senator XENOPHON** (South Australia) (16:49): My time on this is short; I will stick to the motion. I think it is fair to say that what the minister said yesterday on *Insiders* really was most unfortunate. Linking the 1,700 jobs of scientists, linking the NCRIS to the higher education changes proposed by the government which are currently evolving further, was not a good thing to do. They are distinct issues. It was wrong to do so. I was very grateful that Senator Cory Bernardi was critical of linking the two together. I dare say that his intervention as a member of the coalition probably had some real sway in the government seeing sense enough to say, ‘No, we need to keep funding NCRIS and not link it to the higher education changes,’ because it is a stand-alone matter.

Senator Ryan made the point about NCRIS that its importance cannot be understated. It has led to collaboration with industry and it has led to innovation. It has created jobs and high-tech industries. Catherine Livingstone, a senior business leader in this nation, was very keen to ensure that NCRIS funding continued. It will do so for another 12 months from 1 July. That, of course, is welcomed. I see that as a bridge, pending the outcome of the review by Philip Clark into NCRIS. I understand that a final report by Mr Clark is due to be tabled sometime in September. That gives us time. It allows the report to be a bridge for long-term funding of NCRIS because this fund provides the backbone of research infrastructure in this nation. When you consider the cost is something like two per cent of the $9 billion of government investment in science research and innovation each year, it is a very small amount; but it carries an enormous punch in terms of scientific research and innovation, collaboration with industry and, of course, our university sectors.

Our international reputation would have been seriously damaged if funding had ceased. NCRIS facilities are part of an international network, and users come from over 28 countries. If you shut down a facility, it is very hard to start it up again without enormous cost. The potential for this causing great damage to our scientific community and to our research facilities would have been enormous. So I am looking forward to the Philip Clark review. I understand that Mr Clark has undertaken a very comprehensive review, and congratulations to the government for appointing Mr Clark to do that. But, if we want to be the clever country, we need to make sure that we have this funding on a long-term basis, not year by year, not piecemeal. It needs to be on a long-term basis so that we can truly be the clever country for the 21st century.

**Senator POLLEY** (Tasmania) (16:52): I would like to speak on this matter of public importance. I think it is so interesting to hear those on the opposite side trying to deflect the debate away from the real issue, and that is the attack on education, and higher education
particularly, in this country by this government. We have seen this government's relentless and constant moves to deregulate Australian universities, to increase student fees and in turn to create an endless cycle of debt and inequity for the children of this country. The Prime Minister's election commitment was that there would be no cuts to education, but we now know that this statement could not be further from the truth. This government has been built on lies and untruths.

The Minister for Education, Mr Pyne, has announced that the higher education bill will be split, but this, to me and to my colleagues, is nothing more than an act of desperation. The government continue to push forward with their policy of fee deregulation and reform, representing a fundamental attack on the future of education in our great country. Degrees will still cost $100,000, and 20 per cent will be cut from the funding. This will still have a devastating impact on the higher education sector.

But I can assure those opposite and those that are listening to the debate that Labor will stand firm against any cuts to university funding and student support. Labor will fight for the survival of Australia's education system. This government wants education to become exclusive. We will find ourselves in a situation similar to the United States, where only the rich can afford a university education and people on a lower or middle income are unable to improve their circumstances. That is what those on the other side are proposing. That is their proposition. This will be devastating to many communities around the country, but none more so than my home state of Tasmania, where people cannot afford the $100,000 degrees. They cannot afford the cost that this government will bring down on them. This government will destroy a proud tradition that this country has: an internationally recognised education system. Under this government, that is indeed under threat.

The cuts that this government wishes to implement vary across the disciplines, coming into effect in 2016. They are arbitrary. Vital areas of study will feel the wrath of the Liberal government's cuts. These are vital areas to the community and to our economy, such as engineering and science, nursing, education, agriculture and environmental studies. These are the people that treat our sick. These are the people that are building our roads. These are the people that are teaching our children. These are the people that are feeding our families. These are the people that are saving our environment. These are the people that are being punished by this government for wanting to make a valuable contribution to our society, unlike the Liberal government.

Those opposite come in here, and they want to rewrite history. Of course they have to blame the opposition, because who else are they going to blame? We know that those on the other side at the moment are in absolute chaos. We know that they are doing somersaults and backflips. Anyone would think the circus was in town, instead of in Launceston, for the children's entertainment.

We know that those opposite want to have a two-tiered system that goes beyond our economy. They want it to go across education, and they want to deny access to those who cannot afford to pay $100,000 for their degrees. They want an education based on the American system, where those who have a big enough credit card can go on to university.

Not only that, but it was this government and this minister who today did a backflip. He was trying to hold 1,700 research jobs to try and persuade the crossbench and those in this place to support this outrageous attack on higher education. This is a government that cannot
be trusted. The Prime Minister, prior to the federal election, said there would be no cuts to
education; there would be no cuts to health; and there would be no changes to pensions, and
what have we seen? Backflips and lies. This government has been built on lies, untruths and
broken commitments. You cannot even call them broken promises. Even Mr Abbott himself
said that unless it is written down you cannot believe it. But, as we know, even the brochures
the now government took to the last election, which said there would be no cuts to education,
cannot be trusted. This is a man who is at the head of this country, the Prime Minister of this
country, who is only governing to save his own position.

This government is firmly committed to attacking the education system of this country. But
Labor will not support a system of higher fees, bigger student debts, reduced access and
greater inequality. Labor will never tell Australians that the quality of their children's
education depends on their capacity to pay. This is Labor's clear position. This is one of the
very reasons I joined the Labor Party and aspired to be a spokesperson for the values that we
believe in on this side. We will stand firm with the community against any further cuts. We
do not want an American-style education system. We cannot afford to go down that path. We
believe—unlike those opposite—that all Australians are equal and that your credit cards
should not dictate whether you can access good-quality education and good-quality health.
That is the difference between those on that side of the chamber and us.

The people of Australia recognise this. They recognise the motivations of this government.
They too have said no. They will not support this, and they do not want those on the
crossbenches or on this side of the chamber to fall in line and follow the push by this
government to tear down the higher education system of this country. Those on that side can
backflip; they can juggle; they can tell lies; they can do their backflips, but there is one thing
that they cannot do, and that is that they will not fool the Australian people, because they
know that Tony Abbott is only interested in saving his own job. It does not matter whether it
is Tony Abbott, it is Julie Bishop or it is Malcolm Turnbull; you cannot change the DNA of
the Liberals, and that is that they are against universal education in this country. (Time
expired)

Senator McKENZIE (Victoria) (16:59): It does not matter whether it is Senator Polley,
Senator Carr or Senator Urquhart; the Labor Party's approach to funding real higher education
reform in this country is the same. Since Julia Gillard left the prime min—oh, sorry; she did
not leave. She was thrown out, stabbed in the back by her own party. I apologise, Mr Acting
Deputy President. Unlike the opposition, I will get my facts straight. Former Prime Minister
Gillard reformed our higher education system to the point that people who previously had
been locked out now, under a demand-driven system, were able to access higher education.
Unfortunately, the Labor Party forgot to budget for it. Increased demand in a demand-driven
system saw escalating costs. Our side of politics wants to see that enfranchisement of rural
and regional students and low-socioeconomic students absolutely maintained, and that is why
this minister and our reforms, at their very heart, have been about ensuring that those who
have been locked out are able to be maintained within the higher education system, because
we will actually ensure it is financially sustainable.

Senator Polley made a really interesting remark about credit cards. I think that, if you look
at the way the Labor Party approaches budgeting, it is a little like the credit card. Senator
Polley or the former education ministers will go out and put the new dress on the credit card.
Senator Carr might go out and have a very nice meal and some wine and put it on the credit card. But at some point, Senator Carr, that credit card statement is going to come in, and what are you going to do? Not pay the mortgage that week? Not pay the kids' school fees? What are you going to do? You have to live within your means, Senator Carr. You have to have a higher education system that is actually financially sustainable.

**The ACTING DEPUTY PRESIDENT (Senator Whish-Wilson):** Senator McKenzie, please direct your comments through the chair.

**Senator McKENZIE:** Through you, Mr Acting Deputy President.

**The ACTING DEPUTY PRESIDENT:** Thank you.

**Senator McKENZIE:** I just want to make some brief comments in the sight of Labor's appalling scare campaign, which just continues. The vacuum that exists around this policy area from those opposite is astounding when the former Prime Minister took such a passion to this area and continued Labor's great tradition of reform, which includes bringing in the HECS system. I took to the streets then too, Senator Carr. I was the first cab off the rank that year when HECS was brought in. We took to the streets, but do you know what? What I thought was bad policy at 18 or 19 I now realise meant that a lot of my friends who could not afford to go to university or who did not go to grammar school could actually access higher education through the Chapman designed HECS system. It is that system and that enfranchisement that we are seeking to continue.

In terms of this side's commitment to research and to scientific endeavour and how it underpins not only our economic development and future, Senator Carr, but our social and environmental future, it was the National Party that actually set up the CSIRO—I bet you did not know that, Senator Carr—and it was the Howard government that funded the NCRIS system and set it up with $542 million over seven years, Senator Carr, in our Backing Australia's Ability package.

**The ACTING DEPUTY PRESIDENT:** Senator McKenzie, I just remind you to direct your comments through the chair.

**Senator McKENZIE:** I do apologise, Mr Acting Deputy President.

**The ACTING DEPUTY PRESIDENT:** Thank you.

**Senator McKENZIE:** But it was the Howard government—$542 million over seven years. If only—through you, Chair—the former government had had such a forward-looking commitment to research in this country, we would not be here, because Senator Carr and all the other ministers that had charge of this particular area would have ensured over the forward estimates that it was funded. I tell you what: $542 million in today's money would not have been a bad start. But you did not do it, just as you did not actually provide enough funding in your forward estimates for the demand-driven funding system.

So here we are. We have been elected to fix the mess. The Commission of Audit backs our research commitment. I notice that in the gallery today we have the mountain cattlemen from Victoria, who will be speaking at another engagement this evening. They too back using scientific method to ensure that their impact is accurately assessed. Those of us who understand science know that the answer you get is all about the hypothesis that you propose. I would argue that maybe we have not, as a scientific community, investigated the positive
impact that grazing cattle has on our environment, nor have we appropriately assessed the economic and social benefits. But we will leave that to another day.

I am absolutely sick and tired of the scare campaign, Senator Carr. Here we are. We are saying that we did not know that funding the NCRIS program was linked to our higher education reforms. Senator Carr, I do not know how many times you can ask a question in this place—

The ACTING DEPUTY PRESIDENT: Senator McKenzie.

Senator McKENZIE: through you, Chair—and be told an answer. You are given an answer every time. In fact, Senator Payne gives you very good answers when you ask questions on this issue, Senator Carr, time and time again. On 11 June 2014, questions were asked and she outlined that you did not set the money aside. We have addressed these funding cliffs in the budget. You did not like the answer, but you got it anyway. You have to listen, Senator Carr, when ministers stand up—through you, Chair—and actually seek to address your issues. For you to disrespect those ministers by not actually listening to them, I think, is the height of derelict shadow ministerialism.

But here we are, thanks to our commitment to research, as I have outlined, over a long period of time. We are not going to let your scare campaign get in the way of a policy that is going to mean more low-socioeconomic students and more rural and regional students get to uni. We are prepared to back ourselves.

Senator LAZARUS (Queensland) (17:07): I rise today to talk about this very important matter of public importance and to say that I am opposed to the Abbott government's higher education measures. I should note the latest backflip on cuts to R&D jobs and movement of the 20 per cent cut in funding to a future bill typifies the dysfunctional way in which the Abbott government is operating.

I have consulted widely with stakeholders across the higher education sector. The feedback has been unanimous: universities want funding increased, not cut. If the higher education measures bill is introduced into the Senate this sitting, Australia can be assured I will be voting it down. The Abbott government's higher education measures are not about anything other than budget cuts. Deregulation will give the Abbott government the green light to cut funding to the sector. Universities will be forced to increase the price of degrees in order to meet operating costs. The latest backflip is simply an attempt to delay the cuts slightly, but rest assured: if the deregulation gets through, the cuts to the higher education sector will come.

In addition, the recent proposal put forward to tax universities if they increase fees too much—which essentially involves regulation of deregulation of regulation—is just plain silly and demonstrates how desperate the Abbott government is.

I have made my position clear. I do not support the Abbott government's higher education measures. Deregulation will significantly change the higher education funding system in Australia and push degrees beyond the reach of most Australians. Such a significant structural change to the higher education system will have far-reaching and negative consequences for our country. Once the deregulation switch is turned on, it will be impossible to turn it back. Australia will be well on its way to an Americanised system where only the wealthy get ahead
and the poor are laden with debt or simply left behind. I do not support the measures. I will continue to vote against the measures whether they are in one bill or in many.

The future of our country depends on our ability to innovate, create and lead in the areas of scientific and medical breakthroughs. The world will pay for these advancements and initiatives. We cannot compete against countries in Asia with lower production costs, so we need to lead in other areas. This requires a commitment to higher education and the development and advancement of our people.

All successful societies prosper through investment in education. Clever countries succeed. The Abbott government's higher education measures will only send Australia backwards. We will become the dumb country. I represent the people of Queensland, and the people of Queensland do not want these cuts to higher education. I am not prepared to horse trade. I cannot and will not support any measures which discourages Australians from wanting to better themselves through higher education. (Time expired)

DOCUMENTS

Auditor-General's Report

Senator DI NATALE (Victoria) (17:10): I rise to speak on the Auditor-General's report No. 25 2014-15: Performance audit: administration of the fifth community pharmacy agreement between the Commonwealth of Australia and the Pharmacy Guild of Australia. I move:

That the Senate take note of the document.

This is a highly complex agreement, so it is important to understand what it does. It is an agreement between the Minister for Health, representing the Commonwealth, and the Pharmacy Guild of Australia, who represent the majority of retail pharmacy owners. It started in 1990 when the Commonwealth established a community pharmacy agreement to run for five years. It sets out how much the government and patients pay for the dispensing of prescription medicines. There is also funding for government funded professional programs and funding for a community service obligation. The pharmacy agreement extends to services that enhance patient medication management—a home medicines review and the like—and it is meant to support rural pharmacies and the rural pharmacy workforce along with the funding of research on evidence based best practice in the delivery of pharmacy services.

In July 2010 the government signed the fifth community pharmacy agreement. This is not just some small agreement between government and the Pharmacy Guild. This is an agreement worth a staggering $15.4 billion. When the previous government signed the fifth community pharmacy agreement, they made it clear that their aim was to achieve $1 billion in budget savings. We have now seen the Australian National Audit Office conduct an audit of the fifth community pharmacy agreement. I have to say that in my time in this place I have never read such a damning assessment of a government process, particularly when you consider the scale of taxpayer money that is being spent on this agreement.

I will go through some of the auditor's findings in a moment; but, as I said, this is a complex agreement. The critical thing here is that it is between the government—the Department of Health, which as the auditor pointed out has overarching responsibility for the administration of the agreement—and, of course, the guild. For those who do not know, the guild is an industry association body. It is an advocate that represents the majority of
pharmacy owners—just the owners, not pharmacists. It acts to administer elements of the fifth CPA and sometimes acts as the agent for the Department of Health. It is acting, effectively, on behalf of the Commonwealth. It receives Commonwealth grants and does other things through the implementation of that agreement.

The Auditor-General's report is a shock to me. They found enormous numbers of flaws with the way health negotiated and managed the fifth community pharmacy agreement. Let's look at just a few things that the Audit Office found. They found that there was a limited basis for assessing the extent to which the agreement met its objectives. In other words, this is $15 billion that we were spending to achieve a certain number of objectives, but we have no idea whether it achieved those objectives. There was no straightforward means for the parliament and other stakeholders to know the expected or actual costs of the key components of the agreement. We just do not know. The initiatives in the fifth community pharmacy agreement, as I said earlier, promised $1 billion in savings over the term of the agreement. We now know that it delivered $400 million in savings. We do not know where $600 million went. What we do know is it is likely that, due to the shortcomings in the way the health department administered the agreement, those $600 million never materialised. A number of the key objectives were only partially realised, and there were shortcomings, in the Auditor-General's words, in aspects of health administration with the development, negotiation and implementation phases. There were failures in record keeping. The Department of Health failed to keep a record of their meetings with the guild. They did not take minutes. They did not prepare notes. They did not prepare an official record of issues under negotiation, which was not consistent—again, in the Auditor-General's words—with 'sound practice'. They did not develop a risk management plan or a probity plan. They did not complete specific conflict-of-interest declarations—the list goes on and on. Even more worrying, $5.8 million of funds were reallocated within the agreement without ministerial approval. They went to the guild and we do not know why. Another $7.3 million again did not get ministerial approval before it was reallocated—there are so many questions that need answers. Another $277 million for professional programs was reallocated.

We are now negotiating a sixth Community Pharmacy Agreement. Let's stop doing that. Let's put a freeze on it and let's make sure that the findings of this report are implemented.

Senator SIEWERT (Western Australia—Australian Greens Whip) (17:15): I would like to add to those excellent comments from Senator Di Natale. In 2011, I chaired a Senate inquiry into the specific provisions for Aboriginal health services. Section 100 provides support for Aboriginal health services. The committee made 10 recommendations through that particular inquiry and those 10 recommendations went through details not only of the operation of section 100 but of some other areas.

The Auditor-General's report briefly covered the Aboriginal and Torres Strait Islander programs and the $29 million. That is a relatively significant amount of money when you are looking at the provision of support for Aboriginal people. The section 100 pharmacy support allowance funds pharmacists to provide support and quality use of medicines services to Aboriginal health services. One of the things that came out of the Senate committee report was specifically about making the funds more flexible so Aboriginal health services could employ pharmacists. Strong evidence was provided to the committee about the importance of Aboriginal health services being able to employ pharmacists. The audit report states:
The Aboriginal and Torres Strait Islander Programs and the Rural Pharmacy Workforce Programs ... had the least developed public reporting arrangements, with some programs and activities not reported on at all ...

Here we are, talking about $29 million for some of the most disadvantaged people in our community. We have a commitment to close the gap by 2031, yet there has not been any reporting on some of the activities in the pharmacy agreement. The audit report goes on:

... or being reported on an ad hoc basis through press releases issued by the Pharmacy Guild. The Pharmacy Guild advised the ANAO that:

The Guild's reporting requirements on these programs are to the Department of Health as per contracting arrangements. The Guild has met every reporting deliverable to Health. It is the responsibility of the Department to report publicly as it does with other programs such as the medication management.

The audit report talks about the Senate report and it also talks about the 2010 report. The audit report says, 'The fourth Community Pharmacy Agreement review of Indigenous Pharmacy programs also noted that stakeholders agreed that it would be preferable for Aboriginal Health Services to directly employ pharmacists.'

So we have the report in 2011 and we have the report in 2010, and we have not seen any action. They are not reporting on how this is being implemented. They are not reporting on the limited health dollars that are going to Aboriginal health. They need to have a good look at this program and a good look at the Senate committee report, because neither the previous government nor this government have responded to the 10 recommendations of the Senate committee report. Surely, given that we are not on track to meet our targets for Closing the Gap this would have been within the sights of government to look at, to respond to and to address.

They cannot sign a sixth Community Pharmacy Agreement until this issue is dealt with. People have been advocating for changes to the way section 100 and the Aboriginal health services program operates under the Community Pharmacy Agreement. They should not sign a new pharmacy agreement until these issues are finally resolved because they are not delivering—actually, we do not know that because they do not require adequate reporting. It needs to change. They need to take this opportunity right now to ensure that the $29 million, or the money that is committed under the new agreement, addresses the issues and actually helps to provide better services to Aboriginal health services, and to employ pharmacists in particular. I seek leave to continue my remarks.

Leave granted; debate adjourned.

BILLS

Acts and Instruments (Framework Reform) Bill 2014
Environment Legislation Amendment Bill 2013
Crimes Legislation Amendment (Psychoactive Substances and Other Measures) Bill 2014
Tax Laws Amendment (Research and Development) Bill 2013

Assent

Messages from the Governor-General reported informing the Senate of assent to the bills.
Australian Securities and Investments Commission Amendment (Corporations and Markets Advisory Committee Abolition) Bill 2014

Tribunals Amalgamation Bill 2014

Report of Legislation Committee

Senator FAWCETT (South Australia—Deputy Government Whip in the Senate) (17:21): Pursuant to order and at the request of the chairs of the respective committees, I present reports on the Australian Securities and Investments Commission Amendment (Corporations and Markets Advisory Committee Abolition) Bill 2014 and the Tribunals Amalgamation Bill 2014 together with documents presented to the committees.

Ordered that the reports be printed.

BUSINESS

Rearrangement

Senator PAYNE (New South Wales—Minister for Human Services) (17:22): I move:

That government business order of the day no.1 (Migration Protection and Other Measures Bill 2014) be postponed till the next day of sitting.

Question agreed to.

Rearrangement

Senator PAYNE (New South Wales—Minister for Human Services) (17:22): I move:

That intervening business be postponed till after consideration of government business order of the day relating to the National Vocational Education and Training Regulator Amendment Bill 2015.

Question agreed to.

BILLS

National Vocational Education and Training Regulator Amendment Bill 2015

Second Reading

Debate resumed on the motion:

That this bill be now read a second time.

Senator KIM CARR (Victoria) (17:22): Labor supports the Vocational Education and Training Regulator Amendment Bill 2015, although we wish the government had moved much sooner to ensure appropriate regulation of the VET sector. The bill aims to prevent shonky operators from exploiting vulnerable people by offering inducements to undertake courses of dubious worth. Labor has been warning about these schemes for almost 18 months. Beyond that, the government must be aware that there is a long history of dodgy private providers with flimsy credentials—or none at all—in higher and vocational education. We have had to clean up this sort of mess before. The former Labor government did so and, as I think is recognised, there are now no more shopfront degree mills. We introduced the regulators which cover these areas to stamp out these practices. There are no more purported universities run out of diving shops on Norfolk Island, whisky wholesalers in Adelaide, or post-office boxes in the vicinity of the black stump.
There is now, however, renewed cause for concern. Some of these fly-by-nights may be poised to fly back if the Abbott government succeeds in deregulating higher education fees and opening up that sector to more private provision. But at least the government has finally decided to act against the unscrupulous amongst the registered training organisations, or RTOs, and their agents in the VET sector. It could hardly have done otherwise. At Senate estimates, the national regulator of the sector, the Australian Skills Quality Authority, indicated that it was investigating 23 providers. The authority reports that it has received almost 4,000 complaints and conducted 3,000 audits since it was established by the former Labor government in 2011.

Last year the member for Cunningham and I called on the Auditor-General to investigate VET FEE-HELP to ensure that skills funding was being used in accordance with the intent of the legislation. The Auditor-General has requested that a performance audit be included in his office's 2015-16 work program. There have been a spate of media reports about the practices of VET operators. I draw the attention of senators to a report published in The Australian today concerning students enrolling in a one-year, part-time diploma in salon management at the Australasian College in Sydney. This course costs students $27,880. That is more than the cost of a three-year arts degree at the nearby University of Technology, Sydney, which is $18,456 after federal government subsidies. But graduates of the salon management course are not qualified to work as hairdressers or beauticians. At least they know that—or they should.

Some dodgy operators whose activities have been reported over the past 18 months, however, do not tell their students what they need to know about the courses being spruiked. They prey on the unsuspecting, signing them up for large VET FEE-HELP debts. In many cases, new students are not even aware that they have signed up for a course, let alone a debt that is often about $20,000. The problem is exacerbated when these RTOs employ brokers to recruit students on their behalf and then attempt to distance themselves from those operators.

The bill contains no specific consumer protection provisions, but it does allow the minister to respond more rapidly on issues of quality control. The minister will be able, through legislative instrument, to declare quality standards. This bill also takes some steps towards making registered training organisations responsible for the actions of their brokers. It prohibits a person from advertising or offering to provide all or part of a VET course without including the name and registration code of the responsible RTO; it makes satisfying the quality standards a condition of registration; it extends the operation of penalty provisions to trading corporations; and it clarifies the definitions of 'quality standards', 'registered training organisation', 'registration code', 'VET information' and 'ministerial council'.

Last week the Assistant Minister for Education and Training announced further changes to deal with rogue providers. They will come into effect on 1 April under the new National Standards for Registered Training Organisations. Providers will be banned from offering inducements—such as cash, meals, laptop computers or other prizes—to get people to sign up for courses they do not need. It will be impossible for providers to levy all fees in a single, up-front transaction. This will ensure that students have a chance to consider their options before incurring a VET FEE-HELP debt. Providers will also be required to give students clear information explaining that VET FEE-HELP loans are real debts that they must repay and which may affect their credit rating. It will be easier for the government to cancel student
debts generated by providers who breach the guidelines. Miraculously short 'diploma' or 'advanced diploma' courses will be banned and a requirement for a minimum number of units imposed. Brokers and marketing agents will be prevented from freelancing—signing up as many students as possible—without the training provider being held responsible for their actions. Labor is pleased that the government has finally heeded our warnings about shonky operators. We look forward to receiving details of the new measures and to supporting them if it is clear that they will operate as the minister has indicated.

Dodgy operators load not only their immediate victims with debt; in many cases the debt is borne by the taxpayer and increases pressures on the federal budget. The report in *The Australian* that I mentioned earlier states that some private colleges are charging up to four times as much as government-run TAFE courses. The nation's student debt bill is ballooning. This is another respect in which the experience of part-privatisation of the VET sector provides a cautionary tale for what might happen in a deregulated higher education sector. In 2013, $709 million was spent on VET FEE-HELP. Last year that figure had blown out to $1.6 billion. A report by the Grattan Institute has warned that 40 per cent of these loans will never be recovered. Therefore, they are a burden on the Commonwealth and on the taxpayers of Australia.

The government has an opportunity to learn from the intervention that it has had to make in the VET sector. What we are seeing is how open markets can easily get out of control. Where there is deregulation and subsidisation of private providers, people will charge whatever they think they can get away with. That is what has been happening in the VET sector. The changes are undermining the traditional, publicly owned and operated TAFE colleges, which train people in skills that are vital to the economy. The changes are allowing private operators to transfer to the nation the cost of boutique courses that may be briefly fashionable but which do not offer students long-term career prospects and which add little or nothing to the national skills base. This is already a disaster. If the government succeeds in its goal of allowing the higher education sector to suffer the same fate, this disaster will become far worse.

**Senator RHIANNON** (New South Wales) (17:31): The National Vocational Education and Training Regulator Amendment Bill 2015 will provide greater transparency in the marketing of VET courses. There are some positives in this bill; we do acknowledge that.

Greater transparency in the marketing of VET courses by requiring marketers and salespeople to be explicit about which organisation will be responsible for issuing the qualification or statement of attainment is clearly needed. There are now so many examples on the record where companies that have moved into the private education sector have failed to do that, and they demonstrate the need for this. The bill also seeks to improve quality standards by responding to emerging issues. We again acknowledge that that is needed.

While the Greens will support these new measures, it is obvious that there is much more that needs to be done to improve the private VET sector and protect vulnerable consumers. There have been so many abuses in this area. We note that Senator Birmingham, who is responsible for this area, has publicly stated that there will be higher standards and more requirements put in place to try and tighten up on the shonky providers that are moving into this area.

This is something that the Greens have been warning about. We have watched closely what has happened in Victoria, and that really has demonstrated the dangers when for-profit
companies come into the education sector. What needs to be reiterated in this debate is that high quality in our VET system comes about when we have an adequately funded public TAFE system which is free to focus resources on higher-cost training and education, which we know that the private operators are reluctant to address. Why are they reluctant to address that? Because their job is to make profits. If you are a for-profit company, then that is what you are required to do by the standards that those companies operate under. Their job is also to seek to increase their profits. They do that by cutting corners, by cutting costs, by running courses that may just go for a few days or for a few hours and, with free iPads or free laptops, by inducing people to sign up. We have heard from the minister that the government are going to tighten up on this, and that is welcome. But the Greens' concern remains that, as these companies have to make a profit, they will continue to look for loopholes and ways to cut corners. This is a challenging area. As I have said, the Greens certainly do not oppose these measures.

The growth in private VET providers in Australia has mainly focused on low-cost courses and program. That is how the private sector operates. This has detracted resources from the public TAFE system. We know that TAFE provides an enormous benefit to our society by delivering a great diversity in programs. We see pathways into learning. We see courses for second chancers. Those who missed out on gaining qualifications at school now want to re-enter the education system, and TAFE can assist them to do that. There are courses that require community infrastructure and expensive high-tech equipment, and TAFE provides those. TAFE provides this enormous diversity for people to come into the education sphere in a variety of ways, and that is a huge asset.

In a debate like this—particularly as we are essentially dealing with the issue of private for-profit companies that abuse the system, abuse the standards and so often get away with it—we need to look at what is going on with TAFE. TAFE is putting massive resources into training. We often have very high cost programs, which include the latter stages of apprenticeship training and high-tech digital courses. These are becoming essential to ensuring that Australian workers are well educated and well trained for the challenges that lie before them as individual workers and the challenges that lie before our whole society. Many of these workers will change jobs many times, and the skill base that they take out into the workforce will be absolutely essential in order to help keep them in well-paid, satisfying work that also benefits our community. Again, so many of those companies are not interested in providing courses that are based on complex infrastructure and need to be well funded to be able to provide the considerable complexity that is required to take forward this type of education and training.

In this debate, we need to remind ourselves of the importance of a robust public TAFE system. It is more important than ever to ensure that we have a sustainable economy. This is very relevant when talking about standards for private operators, because so many of these private operators are actually undermining our economy—because, when you undermine the standards in our training and education, it means that people may not even be able to enter the workforce because they have blown their opportunity to be able to gain a successful degree. So the consideration of the role of TAFE is very important here. There is a lot of work to be done, which means lots of jobs require technical expertise. Often that will only come by having a well-funded public TAFE system. I have to bring in the issue of climate change here.
The challenges that we are facing and the need to transition to a clean economy require training and education to be provided in a very comprehensive, very thorough way. That is something that for-profit companies basically step away from. Yes, we are supporting this bill—the standards need to be improved—but just increasing a few standards is not going to address the problems that we have with some of these for-profit companies are operating.

Again to emphasise: the Greens do recognise that at times there is a role for private providers, but that should not include for-profit companies. When you bring the for-profit motive in, you have immediately got problems with people cutting corners. How the Greens see it is that those private companies should only come into the running of the courses when TAFE is unable to provide the course itself, either because of the location or, in some cases, because of the resources that are available. We need to emphasise, when we are considering these matters, that private providers so often cherry-pick the low-cost courses, because that is where they can make more money. We need to ensure that TAFE is able to continue to deliver high-quality and higher cost training and is able to provide that diversity of courses.

The Greens have serious concerns about the direction the VET systems are heading in. This bill that we are debating now is a small step forward, but, as the ministers’ comments just last week revealed, the problems with the standards with so many companies here are so enormous. This is something that needs to be dealt with much more thoroughly. We will clearly be revisiting this with much more legislation. But it needs to be injected into this debate that one of the best ways to handle the issue of the low standards that private, for-profit companies bring to vocational education and training is to ensure that we have a well-funded, publicly owned TAFE system that is the dominant provider of vocational education and training programs.

Senator POLLEY (Tasmania) (17:40): I rise today to speak on the National Vocational Educational and Training Regulator Amendment Bill 2015. Vocational education and training covers the provision of education, training and assessment exercises leading to accredited qualification offered by registered training organisations. It may occur in workplaces, TAFE and higher education institutions, colleges and schools, trade training centres and adult and community education providers. Vocational education and training is practical, hands-on learning with an industry and trade focus. It is vital for ensuring that Australians receive the required qualifications to achieve an acceptable standard of living and provide for their families.

In Tasmania, most of the vocational education and training is undertaken by the Tasmanian Academy, the Tasmanian Polytechnic and the Tasmanian Skills Institute. The Tasmanian Academy incorporates the eight senior secondary colleges and provides a wide range of vocational educational training, including institution based apprenticeships and enrolment in trade training centre courses. The Tasmanian Polytechnic is Tasmania’s largest registered training organisation and offers over 300 courses in areas such as disability services, community services, building and construction, metal trades, agriculture, engineering and mining, and automotive building and maintenance. The Tasmanian Skills Institute provides training for employers looking to up-skill their employees. It provides a wide range of training opportunities targeted to industry needs.

Vocational education and training can be the key to unlocking the door to a range of new opportunities in life. I see the benefits that people, particularly in my home state of Tasmania,
get from vocational education. It gives them the confidence they need to go out and get a job with. It also gives them knowledge and skills and empowers them in life to be positive contributors to the community.

Australia has some great education providers who have built up reputations both domestically and internationally as offering the world’s best education. These are excellent examples of vocational training and education providers. There are many others as well, such as the Australian Apprenticeships Access Program, which provides vulnerable job seekers who experience barriers to entering skilled employment with nationa

lly recognised prevocational training, support and assistance, or the Australian Film Television and Radio School, with new opportunities for emerging writers and producers to develop their skill sets and prepare themselves for the workplace.

Unfortunately, though, the standard of training in the national vocational education and training system has been allowed to deteriorate. This sector has often been populated by dodgy providers who have harmed Australia’s education and training reputation. There have been an enormous number of cases of unscrupulous registered training organisations preying on vulnerable students and signing them up to large VET FEE-HELP debts. They have fundamentally damaged the people who took up many of these dodgy courses. Students have had their careers hurt, or they have even been so discouraged by their treatment and the debts that they have accumulated that they have become less employable. These represent wasted and missed opportunities. That is a great tragedy for the Australian community. Often the students are not even aware that they have been signed up for a course, let alone VET FEE-HELP debts running in to the tens of thousands of dollars.

The problem is made worse by registered training organisations employing brokers to recruit students on their behalf and then attempting to distance themselves from the actions of the brokers. The brokers usually come in the form of door-to-door salesmen, employing aggressive sales tactics to con people in disadvantaged areas into signing up. This is a particular problem in some parts of my home state of Tasmania, and I am sure there would be others from other parts of the country who could make contributions as well. As reported on 7.30 earlier this year, one institution in particular billed taxpayers for approximately $110 million in VET FEE-HELP loans.

One of the victims was a Tasmanian single mother of three, Nola Smith. She was talked into signing up to a $20,000 double diploma of counselling and community services by a salesman from Careers Australia last year. The salesperson then gave her a ‘free’ laptop before completing the entrance requirements on behalf of the victim. In another case reported on ABC News Jake Wright, from another of Tasmania’s poorest communities, was talked into signing up to a double diploma of business and management, also with Careers Australia. He thought it would be a chance to make something of himself and to get out of his current set of circumstances. Unfortunately he was unable to complete the work. After being pushed away by the institution, he dropped out. Now all he has left is an $8,000 debt.

Labor has been warning about shonky operators for almost 18 months, but our warnings and calls to action have been largely ignored. Last week, the Abbott government voted down our amendment calling on this government to act with more urgency to ensure the protection of students is made a priority, to support tougher measures including an investigation by the
Auditor-General into the misuse of VET FEE-HELP, and to introduce an education campaign by the ACCC. Shame on those on the other side for not supporting those amendments.

In addition to this, the Abbott government recently axed $43.8 million and over 10,000 training places from the Skills for Education and Employment program. The Skills for Education and Employment Program helped job seekers to develop speaking, reading, writing and basic maths skills to improve their chances of getting, and keeping, a job. These cuts represent an enormous blow to the vocational education sector. The Abbott government has also abolished the Workplace English Language and Literacy program which provided English language and literacy training to help workers with their current and future employment and training needs.

Now Jake, along with many people just like him, will be unable to find a training place and will struggle to build a future for himself. We are now seeing a greater amount of short courses and larger class sizes, with very little support for struggling students or those students who have disabilities. I know that some private training companies are making huge profits and sometimes these profits are made from cutting corners on quality.

In 2011, in order to maintain quality in the VET sector, Labor established the national regulator, the Australian Skills Quality Authority. Since its establishment in 2011, the Australian Skills Quality Authority has received more than 4,000 complaints and conducted 3,000 audits. That is 4,000 complaints in less than four years—an astonishing record of failure. Since the Abbott government came to power teachers, advocates and other institutions have claimed that the complaints being directed to the authority seem to be falling on deaf ears. The Abbott Liberal government has taken its eye off the ball and lost control of the vocational education and training sector.

It is not the only policy area where we have seen evidence that they are just not up to governing. The Abbott government has also removed many other forms of support for students in the vocational education sector. This chaotic government has taken the axe to the skills portfolio, cutting $2 billion since the last budget. Programs such as Tools For Your Trade are now gone. Also cut under the Abbott government are the mentoring and access programs, with the Joint Group Training program in the process of being abolished. Each of these programs helps apprentices start and complete an apprenticeship.

I ask those opposite: how are our apprentices now supposed to establish their careers? How are they supposed to provide for their families? How are they supposed to live? Shame on the Abbott government. It goes to the record of the Howard government, which never invested in the skills; that is why we ended up with the skills shortage after 11 years of the Howard government. Without skilled people able to enter the workforce, how are we to build infrastructure for tomorrow? How are we supposed to build the roads, the schools, the bridges and the hospitals for tomorrow? This demonstrates yet again how this government has abandoned the Australian skills training sector and the future of this country. Skilling our workforce is not a priority for this chaotic government.

Tony Abbott keeps talking about how he cares for and supports small business. He even made an election promise. Through measures such as supposedly cutting red tape and abolishing the carbon tax, the Prime Minister claimed he had the best interests of small business at heart and that he wanted to grow small business to build a better future. But this broad narrative runs against what has been allowed to take place under his watch in
vocational education. It therefore represents yet another broken promise. It is another example of how what Tony Abbott said before the election is very different to what he has done since he has been in government.

Small businesses know they have been let down by this government. I have spoken to many small business employees in Tasmania who are outraged that many of their apprentices will drop out of their trade because vital government funding support has gone under this government. These small businesses feel betrayed by Tony Abbott and his government. The Prime Minister is abandoning vital trades in this country and leaving enormous skills shortages at a time when many people are struggling because they are on an apprentice's wage and need support to maintain a reasonable standard of living. For apprentices of a mature age it is even more difficult. Older apprentices have been dealt a crushing blow by the Abbott government which has abolished their payments under the Support for Adult Australian Apprentices program, a program which was put in place to encourage upskilling for adult workers over the age of 25. Adult apprentices studying a certificate III or IV could receive $150 per week, up to $7,800 per year, in the first year and $100 per week, up to $5,200 per year, in the second year of their apprenticeship. This investment assisted those who wanted to continue to build on their skills so that they could continue to make a contribution to our economy.

The government also cut the Apprentice to Business Owner program, which provided training in a nationally recognised qualification in small business management and included business mentoring and support for up to 12 months. Many tradespeople operate as subcontractors, sole operators or small businesses. To establish a successful business in addition to their trade-specific competency, they also need to develop small business management skills to ensure they meet business and employment regulations.

It is extremely important that the Abbott government understands that support for vocational education and training is critical to ensuring that we are skilling our workforce. We do not want to go back, as I said before, to the bad days of the Howard years when there was no government investment in skilling. Labor believes in skilling our workforce and we on this side believe in appropriate regulation of all education sectors to ensure that there is integrity in the system. Labor believes more must be done to protect students and young Australians to provide them with the proper support they need to improve their knowledge, to get a better job, to contribute to the future of their families and communities and, ultimately, to ensure that our nation becomes more productive because all of this helps our economy and it makes us a stronger community.

As I previously stated, education is the key to unlocking the door to a range of new opportunities in life. On that basis, Labor supports these increased transparency and regulatory measures. We believe that there should be greater fairness in the marketplace so people can decide which course is right for them. Growth of VET FEE-HELP debt has exceeded all projections with more than $1.6 billion allocated last year. The Grattan Institute has warned that 40 per cent of vocational loans will never be repaid.

This government seems determined to strip funding from the higher education sector at the same time. This is not the sign of a government that knows what they are doing. This is a sign of a government that are more concerned about governing for themselves and in protecting their own jobs than in governing for all Australians. This has in turn threatened the viability of Australian higher education.
of our TAFE sector. Our TAFE sector has played an invaluable role in educating our community and has been responsible for producing some superbly qualified tradespeople whether in the building sector or in the manufacturing sector. But if they have to compete with a registered training organisation offering courses at a fraction of the price then obviously the registered training organisations will win out. That is why we need the adjustments made in the National Vocational Education and Training Regulator Amendment Bill 2015.

We have an opportunity to start again and weed out the dodgy providers who have made themselves a lot of money posing as vocation education and training providers in our education sector. It will extend the registration period for registered training organisations from five to seven years but we will not have to wait until their re-registration before we can look closely at how they are performing. We will be able to look at their performance, their quality, the experience of their students and their courses well before they are up for re-registration.

We are going to enable the Australian Skills Quality Authority to focus its attention on investigating and acting upon high-risk and poor quality providers. The authority will be given additional resources and focus to do that. It will be empowered to ensure a greater level of standard. We are going to be able to protect the community and ensure that it does not fall victim to these unethical salesmen preying upon the weak and the innocent.

We cannot rely on this government to properly administer the vocation education sector in its current format. As I said before, this is not the only policy area that the government has taken its eye off the ball since it has been in government. We have had a change in the responsibility of this sector but we need to do more. This legislation will assist us in ensuring that those who have the skills, those that provide the quality courses will be there to ensure that we are able to invest in the skills and upskilling of the Australian workforce, which we all know goes a long way to support our economy. That strengthens our economy so productivity increases—all are very good measures to ensure the prospective this country.

We on this side will always speak up for quality in education. We will stand up to this government when they try and tear down the education sector as they are trying to do currently, which we are debating in this place this week. But the Australian people will stand firm and oppose the Americanisation of our universities in this country. So while those opposite are trying to tear down the sector of higher education, we cannot afford on this side and on the crossbenches to take our eye off the ball and allow them to further run down the TAFE and vocational education sector of this country because it is an essential element of our education sector. It is vital to the prosperity of this country. It is vital to the people I represent in Tasmania and I want to do everything I can, along with my colleagues, to ensure that there is transparency.

Senator Bilyk interjecting—

Senator POLLEY: Yes, Senator Bilyk, you are very strong on this legislation. You know first-hand from the sector from which you came—that is, early childhood education—how important this sector is to our community. As you say many times in this place, there are times when those opposite act like the children that you used to care for. In fact, I think those children were better behaved than those on the opposite side.
We on this side are always going to stand up for the weak and the innocent in our community, for those who are vulnerable, for those who are desperate to have a new start in life. We will ensure that those people that are working and educating through the vocational education sector are of the highest standard. I support the National Vocational Education and Training Regulator Amendment Bill 2015 because it actually supports each of those things I have outlined in my contribution today.

Senator BILYK (Tasmania—Deputy Opposition Whip in the Senate) (17:59): I too rise to speak today on the National Vocational Education and Training Regulator Amendment Bill 2015.

Vocational education is an issue that I have had a particular interest in for many years, through my employment background as an early childhood educator—as mentioned by Senator Polley—and as a former member of the Senate Employment and Workplace Relations Committee, along with the now Deputy President, currently in the chair. I was also a member of a number of industry training boards when I represented workers through the Australian Services Union.

Labor believes that quality education is the way that we can improve the lives of individuals and communities. We also believe that a quality vocational education sector is vital to ensuring Australia’s future growth and for training our next generation of workers. In 2007, the Howard government extended the use of FEE-HELP to include the VET sector for approved diploma and advanced diploma courses. VET FEE-HELP commenced in 2009. Labor amended the legislation in 2012 to increase the coverage of VET FEE-HELP to all diplomas and associate diplomas, and conducted a trial to extend VET FEE-HELP to certificate IV courses. This was to allow the greatest number of students to gain worthwhile qualifications.

We on this side believe that access to education should not be based on your postcode. However, growth of VET FEE-HELP has exceeded all projections, with more than $1.6 billion allocated last year. In the 2014-15 budget, the government estimated that 172,300 VET FEE-HELP places were needed. However, in the Department of Education additional estimates statement this year the figure was revised to 225,500. The Grattan Institute has warned that 40 per cent of vocational loans would never be repaid. Obviously, this becomes a financial burden to the Commonwealth and it needs to be addressed.

Unfortunately, we have unscrupulous RTOs signing up people for near-worthless qualifications that they do not have the ability to complete. The number of RTOs—or registered training organisations—in Australia has grown over the past few years. Evidence given in Senate estimates earlier this year shows that as of 31 December the number of RTOs was 4,573, with the Australian Skills Quality Authority, or ASQA, regulating 3,898 of these. So it is important that we get the regulatory framework right, and that brings us to the bill we are debating today.

The bill contains amendments to the National Vocational Education and Training Regulator Act 2011. It supports ongoing reform measures. These measures include protecting the integrity of the VET system, giving the regulator capacity to respond to emerging issues and technical amendments to improve the efficiency and operation of the act and, consequently, the regulator. While Labor is supportive of the aims of this bill, what it fails to
do is to address the damage to individuals that has already occurred or to propose any action to engage with the community to minimise future problems.

Under VET FEE-HELP, students are able to access up to $97,728 in total for most courses offered by eligible registered training organisations. This leaves students at risk of running up large debts for potentially worthless accreditations. Already, the actions of unscrupulous RTOs and brokers have had serious impacts on vulnerable individuals. My office was approached only last week by constituents who are concerned by the tactics of some registered training organisations in trying to sign up vulnerable people for qualifications.

Volunteers at the local Men's Shed were approached by recruiters to sign up for courses. Tactics included telling the potential students that they would get $30 more per week because they would change from Newstart allowance to study assistance. They were told not to worry about the debt as, 'You'll only have to pay it back after you earn $53,000, so that won't be a problem.' Recruiters were evasive, particularly when one potential student asked to see the contract they were signing up to.

In addition to this case, there has been an explosion in media reports of unscrupulous RTOs preying on vulnerable students and signing them up for large VET FEE-HELP debts. In many cases the students were not even aware that they had signed up for a course, let alone a significant debt—often at around $20,000.

I would like to expand on one example that Senator Polley gave about a Tasmanian student. This was reported by ABC Online, on 23 December. The article reads:

Former student Jake Wright was excited when he signed up for a double diploma of business and management with Careers Australia.

But he was out of his depth and contacted a tutor who advised him to watch YouTube videos.

"I found them quite hard to understand and when I actually asked him if he could assist me at all he just told me to watch the videos and I said, 'I've watched them, I can't do the work,'" he said.

Jake's mother Lexia Brown helped him un-enrol, but not before he had racked up a VET debt of more than $8,000.

"Even under supervision he would not be able to do it. He can do many other things but not a double diploma in business and management," she said.

Students deserve a lot better—a lot better—than to be told to watch YouTube videos for a course they are racking up debts of thousands of dollars for. And RTOs have a responsibility to make sure that the students they enrol have the ability to undertake the course they are enrolled in. I am pleased to say that after this story was broadcast the RTO responsible contacted Jake and agreed to waive his debt, although there are thousands of students who have not been so fortunate.

Unfortunately, Jake is not alone; media reports seem to indicate that low-socioeconomic areas in Tasmania in particular are being particularly targeted by unscrupulous RTOs. The problem is exacerbated by RTOs employing brokers to recruit students on their behalf and then attempting to distance themselves from the actions of the brokers. Potential students have been offered inducements by brokers like laptops, iPads, meal vouchers and other tangible goods for signing up. This bill takes some steps to put responsibility on the RTO for the actions of their brokers. There is also a change to allow more rapid response to quality
standard issues by the minister and the regulator. These are worthwhile aims, and build upon the work done by Labor when we were in government.

In order to maintain quality in the VET sector, in 2011 Labor established a national regulator—ASQA. ASQA is working hard to clean up the sector. ASQA Chief Commissioner, Mr Chris Robinson, said the regulator has cancelled, suspended or refused the registration of 350 colleges since 2011. Mr Robinson said:

We've been very busy and we've taken strong actions against that minority of RTOs that are poorly compliant with the required standards. I would say the training sector is in better shape than it was in the past.

Even though this government has a habit of cutting funding, in this case they allocated $68 million in additional funding in October 2014 to support the important work of ASQA.

However, I am extremely disappointed that the Abbott government has abolished the Australian Workforce and Productivity Agency, which was established in 2012 by the former Labor government, replacing Skills Australia, to provide expert, independent advice to government on current, emerging and future skills and workforce development needs. AWPA brought together the peak national bodies, such as ACCI, AiGroup and the ACTU, to achieve industry leadership. It also took a tripartite approach to skills and training where industry, training providers and unions had a strong voice. Labor is also deeply concerned about the Abbott government's plans to further narrow down access to advice by completely abolishing Industry Skills Councils.

Last year shadow ministers Kim Carr and Sharon Bird called on the Auditor-General to investigate VET FEE-HELP to ensure that skills funding is being used in accordance with the intent of the legislation. I am pleased to say that the Auditor-General has requested that a performance audit be included in the Australian National Audit Office's 2015-16 work program. In addition, at Senate estimates, ASQA indicated they were going to conduct an investigation into a further 23 providers.

The Abbott government's new national standards for registered training organisations will come into effect on 1 April 2015. The new standards will require RTOs to declare sales relationships with sales brokers and allow the regulator to hold RTOs accountable for the actions of their sales brokers. A national training complaints hotline was established by the Abbott government in January 2015.

The bill contains amendments to the National Vocational Education and Training Regulator Act 2011 that supports ongoing reform measures, including: protecting the integrity of the VET system, giving the regulator capacity to respond to emerging issues, and technical amendments to improve the efficiency and operation of the Act and consequently the regulator.

The bill also extends the period of registration able to be granted by the regulator from five to seven years. Specifically, schedule 1 of this bill would make amendments to the NVETR Act to address a range of issues, including: extend the operation of penalty provisions to trading corporations; create a new offence of prohibiting a person from advertising or offering to provide all or part of a VET course without including the name and registration code of the responsible registered training organisation; extend the period of registration able to be granted by the regulator from five to seven years. And there are other areas in that schedule.
On 5 March 2015, in the House, Labor moved a second reading amendment to this bill. The amendment would have: immediately sought a consumer protection information campaign by the ACCC, including advice for people who need to seek redress, and considered other mechanisms available to strengthen consumer protections; supported Labor’s call for the Auditor-General to conduct an audit on the use of VET FEE-Help. But this was voted down by the government, who used their numbers to block Labor's sensible amendment.

Once again, the Abbott government has come late to the party on this important issue. Labor has been warning about shonky operators for almost 18 months. But, only now, after their bill has passed the House, has Senator Birmingham announced legislative and other changes to better protect students.

From Senator Birmingham’s media release of 12 March the government will now: ban providers from offering inducements or incentives to students—like cash, meals, prizes or laptops—to get them to sign up to courses that they do not need; make it impossible for providers to levy all fees in a single transaction up front, giving students more opportunity to consider their options before VET FEE-HELP debts can be incurred; ban miraculously short diploma or advanced diploma courses, instead requiring a minimum number of units of study; protect vulnerable students by requiring providers to properly assess students for minimum prerequisite educational capabilities before enrolment; eliminate insidious practices like nursing home enrolments; stop marketing agents and brokers freelancing to sign up as many students as possible, without the training provider being held responsible for their actions; give students clear information that helps them understand that VET FEE-HELP loans are real debts that impact their credit rating and are expected to be repaid; ensure students sign off on high visual impact statements making it explicit the total debt they will incur should they proceed with a particular course; and further issues.

I am glad that the government has finally heeded our advice to help protect vulnerable people. But, had they really cared about this issue, the changes that require legislative action would be in the bill we are debating today, not some future bill for this place. It is disappointing that they have come to agree with Labor for the necessity of these changes only at the eleventh hour, and after their legislation has already passed through the other place. It is another sign of this disorganised and dysfunctional government. This government is so focussed—and they probably need to be—on their own internal leadership squabbles that they cannot sort out their legislative program. Those legislative changes could have passed the House almost two weeks ago, had they got their act together.

This government has demonstrated a clear disregard for vocational education during their time in government. The Abbott government has cut almost $1 billion from support for apprentices. They have abolished the Tools for Your Trade program which provided up to $5,500 in direct assistance to apprentices to help them purchase tools, equipment, uniforms and vehicles for their trade. The Abbott government has also cut mentoring and access programs and are in the process of abolishing Joint Group Training—all of which help apprentices to start and complete an apprenticeship.

Older apprentices have been dealt a devastating blow by the Abbott government abolishing their payment under the Support for Adult Australian Apprentices program which was put in place to encourage upskilling for adult workers over the age of 25. Under the now axed
program, adult apprentices studying a certificate III or IV could receive $150 per week, or up to $7,800 per year, in the first year, and $100 per week, or up to $5,200 per year, in the second year of their apprenticeship. The government has also cut the Apprentice to Business Owner, or AtoB, Program, which provided training in a nationally recognised qualification in small business management and included business mentoring support for up to 12 months.

Many tradespeople act and operate as subcontractors, sole operators or small businesses. To establish a successful business, in addition to their trade-specific competencies they need to develop small-business management skills to ensure they meet business and employment regulations. But, now that the AtoB Program has been cut, they will find it a lot harder to run their businesses effectively. So much for a government that allegedly cares about small business.

The Abbott government has also axed $43.8 million from the Skills for Education and Employment, or SEE, program, abolishing over 10,000 training places. The SEE program helps job seekers to develop speaking, reading, writing or basic maths skills to improve their chances of getting and keeping a job. The Abbott government has abolished the Workplace English Language and Literacy Program, which provided English language and literacy training to help workers meet their current and future employment and training needs. In its first budget, the Abbott government abolished the National Workforce Development Fund, which was a matched dollar-for-dollar partnership between government and employers to help employers upskill their workers to face the challenges of the future and to improve productivity. The list of cuts that the government has made shows it cares little about skills and training.

Labor support the changes in this bill and the other changes announced recently, albeit belatedly, as I said, by the minister. We support changes that improve the quality of RTOs and we support changes that help students to be protected from unscrupulous practices. But it would have been nice if the government could have got its legislative program in order so we could pass those changes today.
hearts are not in it. Their ideology is not in it. They simply do not believe in equitable access to education. They do not believe in equality. They believe in creating a two-tier, American system.

In a way it is extraordinary that the government are at the point where they have come forward with this piece of legislation, but it is only because they have changed their minds. Last week, the government voted down Labor's amendment, when we called on the government to act with more urgency to ensure the protection of students. We saw it as an issue that needed to be prioritised. We needed support for tougher measures. We were calling for an investigation by the Auditor-General into the misuse of VET FEE-HELP and we wanted an education campaign to be introduced by the ACCC to look at the sharks that are circling young, vulnerable people and mature-age students, who are also vulnerable and susceptible to the sort of seduction that was outlined by Senator Bilyk in her speech, which preceded mine. Following a common theme we are seeing at the moment, the government back-flipped. Last week they would not do it, but this week they decided to heed our advice. At last, they were dragged kicking and screaming to the legislative table to do something to protect vulnerable people. I will congratulate them on that.

As always, Labor will be happy to support good measures that provide protection for vulnerable people, and we look forward to receiving the details of these new measures. At this stage, there has been an announcement, but I have learnt that we should be a little careful about announcements from this government, because you might get an announcement on Thursday and it can look a whole lot different on Tuesday. We found that out with the announcement with regard to the registration of financial advisers. Education was on the register one minute and, in a press release a few days later, it had miraculously disappeared. So we need to be really careful. The government were not with us last week; they are with us today; let's see what the story is tomorrow. We have the announcement but we have little detail.

The Assistant Minister for Education and Training, Senator Birmingham, who I acknowledge is here in the chamber, announced that the government is going to introduce a rolling—I thought that was an interesting term—campaign of legislative and other changes to deal with rogue training providers and to better protect students. To deal with rogue training providers and to better protect students, and I agree with that, there will be a 'rolling campaign'. Labor has been warning about these dodgy operators for 18 months—

**Senator Birmingham:** Happy to explain in a minute.

**Senator O'NEILL:** I look forward to assessing Senator Birmingham's rolling campaign as it comes down the hill! I was trying to figure out what a rolling campaign could be. We have those old sayings: 'a rolling stone gathers no moss' and 'roll out the barrel'. There is 'rolling in it', which often refers to rolling in money. But I wonder if what we will have from this government is the joy of a press release one day and students rolling in debt the next. Let us see what this rolling campaign actually looks like.

We know that many students have been left vulnerable and exposed as a result of the failure to properly regulate the provision of training to young people. Labor has a strong record on investing in skills and helping students and workers to obtain the skills they need to
participate and compete in the modern workforce, as well as introducing regulation and quality assurance. For over a year, Senator Birmingham has talked tough about action against unscrupulous RTOs, but the government have not done anything to stop the problems. Finally—

**Senator Birmingham:** They were only sworn in on 23 December.

**Senator O'NEILL:** it is good to have you on board, Senator Birmingham, but this change that is happening now is happening in a context. I want to explore that context in terms of the state that I represent here in the federal parliament, the great state of New South Wales, and see what smiling Mike Baird, the Premier there, has been up to.

I was at the launch for the Labor Party campaign with our leader, Luke Foley, at the Catholic club in Campbelltown. That is actually where I grew up in my teen years. I went to St Patrick's College in Campbelltown, and I am very proud to be the duty senator for the great seat of Macarthur. Mr Foley said at that launch that he had nothing against Mr Baird in principle. He seems like a nice fellow with a lovely smile. But he is a Liberal, and they have a different set of values from the Labor Party, which I represent here.

Across New South Wales and on the Central Coast, where I live, under the Liberal government of Barry O'Farrell and now Mike Baird, TAFE courses have absolutely taken a hiding. Courses have just been completely axed, with students saying, 'I'm part-way through a diploma or qualification and unable to complete it.' They have been arbitrarily shut down. Special assistance measures for students with disabilities have been wound back. If you have a visual impairment or a hearing impairment, that is the support that you need to be successful—and I have taught many of these students who transitioned from the TAFE system into the university. I have taught many of these students, and all they needed was a little hand for a little while to get the skills that they needed. That kind of support has been ripped away by a Liberal government. Do you get the pattern here?

And, of course, there has been a predatory fee increase. This has happened in 2015, and it is hitting students hard. Again, students who had planned for how much it might cost them to study are being hit with incredibly high fees, doubling the cost, for example, of a certificate III in hairdressing. It now costs $2,000, an increase of $998. For young people who certainly do not get very high wages even when they become qualified, overall the increase to fees on TAFE courses under Premier Baird's change is simply going to put vocational training out of reach of many young people in New South Wales and push them into the hands of unscrupulous RTOs that would bring them in the door, load them up with debt and leave them with a qualification worth nothing. This is a construction of the Liberal government: the decimation of TAFE, creating that empty space in which these young people and mature-age workers who are seeking retraining are now vulnerable participants.

The massive hikes are also going to have a very negative impact in terms of the long-term skill shortage that they will create for many industries, not to say anything about the quality—and I would like to make some more remarks on that if time permits. But the fee increases we are seeing to the TAFE sector are not only going to hurt our economy; they are going to compromise the future jobs of thousands of people across the great state of New South Wales. I am a resident of the Central Coast, where we have incredible pressures in terms of unemployment. This plan of the Liberal government in New South Wales is devastating for the Central Coast.
There is a contrast. Labor has a $100 million TAFE rescue plan on the table to reverse the Baird government fee hikes that have happened for apprentices. That will be a saving of $990 for these apprentices. It makes a difference—because Labor has a different view about access to education from those in government here federally and in New South Wales. The Baird government, no friend of education, cut $1.7 million from the education system. What has it done to teachers? It has axed the jobs of 1,100 teachers and staff.

Courses have been lost at Wyong TAFE. One of the hot spots for youth unemployment in New South Wales is on the northern part of the Central Coast. What have they cut? They have cut the second-chance HSC—it is just gone. So, if anything happens to you—if you have an identity crisis, you have anxiety, you are unwell in any shape or form, there is a crisis in your family, or a parent or sibling dies—if anything traumatic or dramatic happens to you as you are approaching the HSC, your second chance to have a go at the HSC is gone. And young people's lives are up in smoke because of a short-sighted government. They have cut tourism, which is an easily accessed industry in our area. They have cut hospitality. In doing so, they have cut the links between well-equipped schools and the local TAFE. And they have cut IT. Gosford TAFE has had cuts in maths. It has had cuts in metal fabrication, and it has had cuts in welding. This is really, really bad for the coast, where trades are a vital part of our economy.

These cuts are actually called—a great misnomer—'Smart and Skilled'. It is dumb and broken. That is the kind of New South Wales that Mike Baird wants to create, and that is an expose of the Liberal policy. Hollowing out TAFE into a business is the first step towards privatising it entirely. What we are seeing in New South Wales is the construction of a completely private sector—and they are in cahoots with this federal government; make no mistake.

Liberals, both federal and state, just do not get it. The TAFE system actually changes the lives of many, many Australians. It provides for people of all ages and from all walks of life. It gives people the opportunity to learn a trade, to begin a career or to make a change when their career choice when they first left school is in an industry that later no longer exists.

Unfortunately, in New South Wales, the Baird government has just spent four years cutting the TAFE system to shreds. This is madness—absolute madness—when you have unemployment growing and you have unemployment on the coast climbing to 7.2 per cent. For 15- to 19-year-olds on the Central Coast, youth unemployment is at 21 per cent. But the Liberal government goes ahead with the cutting, the slashing, the burning. 'Oh, it'll be good for you; just trust us,' it says. We have kids who are devastated, whose lives are falling apart right now. They cannot wait for the Liberal government to wake up to the fact that it is killing off the opportunities for young people.

Labor and Liberal: two very different views of education. Luke Foley's Labor has committed to rebuilding TAFE. It will invest an additional $100 million into TAFE, and that is the sort of money that is going to allow Gosford and Wyong to reinstate vital courses that have been cut.

**Sitting suspended from 18:30 to 19:30**

**Senator O'NEILL:** Prior to the dinner break, I was making some remarks with regard to the National Vocational Education and Training Regulator Amendment Bill 2015 and
pointing out the very different set of values that Labor and Liberal members of this parliament and also of the New South Wales parliament have with regard to education, particularly the TAFE sector. Labor have committed to rebuild TAFE and invest $100 million into TAFE. That will allow places like Gosford and Wyong campuses to reinstate some of the vital courses that, as I articulated, have been pulled out, including a second chance to do the HSC and metal fabrication courses, taking away the opportunity to learn and build a future. We need to see this restoration of student support, and the reason that has to happen is that Labor is seeking government on the back of a four-year Baird-O'Farrell government, with cutbacks and massive rounds of fee increases to our students.

The shadow minister for education, Ryan Park, visited my home region of the Central Coast recently. He visited Wyong TAFE, which has been so savagely attacked by the Liberal ideology, with places taken away from young people, and he said what is apparent to me as a Labor person and to any fair-minded Australian: that a strong vocational education and training system is absolutely vital for the future of this nation, and it is certainly vital on the Central Coast, where unemployment is rising and four out of 10 students do not complete year 12. Where are they going to go after the Liberal Party have finished killing off the TAFE system? They are going to go to these RTOs that we are seeing this legislation brought forward to try to contain. We need to call on this government for Mr Abbott to talk to his mate Mr Baird and say: 'Get your hands off TAFE. Leave TAFE standing. Give it some status. Give it some funding. Let it stand as the one thing that will provide the bridge between unemployment and a future for millions and millions of Australians.'

Labor has committed that in one term we would abolish the very misnamed Smart and Skilled Liberal policy of TAFE privatisation; we would reverse the Baird government's TAFE fee hikes, including the savage increases that have commenced this year; and we would guarantee funding to TAFE by capping the amount of public funds that can be contestable by private operators at 30 per cent. If this government is serious about making a backflip that is actually worth something, it might make some sort of similar commitment, saying that it will not support the states that do not limit the capacity of the RTOs to take over more than 30 per cent. We need TAFE. Australians know it has been a quality deliverer of education for decades. We need it. We would also commission a landmark review of education and training in New South Wales after year 10, with an action plan to develop Central Coast TAFE into a world leader.

Mr Shorten was on the coast last week, and he reiterated Labor's commitment to and concern for TAFE. He said:

There is a role for private providers in training and there are some private provider organisations doing outstanding work, but I think there is mounting community concern that on the one hand we've seen the Liberals dismantling and attacking TAFE, and on the other hand, we've seen the 'leave it to the market' attitude of private providers in training and we're seeing a long tail of underperformance and indeed in some cases scandalous behaviour.

That could not be any more clear than in Victoria, where people have undertaken courses that were so badly delivered by private training organisations that their qualifications are null and void—people who have been through the terrible experience, paid the money and got a certificate not worth the paper it was printed on. We know that the behaviour of some of the
private providers has served to undermine confidence in vocational qualifications. It has taken advantage of students unable to make informed decisions.

We know that disadvantaged students are under-represented in the for-profit VET sector. TAFE continues to enrol most early school leavers, regional students and students with a disability. It is doing the heavy lifting of helping young people and those who find themselves unemployed to transition to work. But we know that the VET for-profit providers are avoiding offering the skills for areas of shortage, like trades, because it would cost them too much money. They are focusing on high-volume, high-profit areas like business studies, but we do not need more business studies; we need people with the trades that match our needs in the community. If Mr Baird and Mr Abbott have another surfing fest on the Northern Beaches and get their way, we will have a totally privatised model and a large-scale abandonment of trade training opportunities.

The record of this government is pretty appalling. They have cut $2 billion from the skills portfolio since the budget—$2 billion. Apprentices should feel rightly betrayed by Mr Abbott and this government. There was a promise before the election: 'Oh, the coalition will provide better support for Australia's apprentices.' That is an absolute load of rubbish. What Mr Abbott did when he got in was cut direct assistance to apprentices; he cut Tools For Your Trade. So, instead of being able to buy a small ute in regional Australia for $5,000, now they will help you out with a $20,000 loan. That is the Liberals' idea of support for people who need access to TAFE. They have abolished the mentor and access programs. They have abolished Apprenticeship to Business Owner. They have abolished the joint training funding. They have cut funding to Australian apprenticeship centres.

Tradies on the Central Coast are the second largest employment group we have. They need proper training for the ones that they want to train up. These are vital parts of our community. They are great employers. They contribute amazingly to sponsorship of surf lifesaving clubs, to Lions, to Rotary and to work experience. Kids growing up know that we need tradies. They want to be tradies. They want to become hospitality workers or IT workers. They want to get on and do their HSC and access uni when they could not before. Only Labor will deliver these things, and this government, with this backflip, is very, very slowly approaching a crisis that it has continued to assist in making in every state, and particularly in the great state of New South Wales, by its appalling treatment of those who want to study and work in TAFE. (Time expired)

Senator BIRMINGHAM (South Australia—Assistant Minister for Education and Training) (19:37): I thank contributors to this debate somewhat half-heartedly because it is an awful lot of sanctimonious claptrap that I have heard in my time in the chamber during the debate on this legislation.

Senator Conroy: You've spent a lot of time listening to Christopher Pyne!

Senator BIRMINGHAM: Senator Conroy knows a bit about sanctimony!

But I will touch on some of the issues that those opposite have raised, because I would hate for anybody who pains themselves to read the Hansard of contributions to this debate to be misled as some of the Labor senators have clearly sought to do through their contributions. Firstly, Senator O'Neill has given a speech that was mostly a speech about the New South Wales election campaign. She is welcome to do that; that is not an unusual thing in this place...
when a state election campaign is underway. I am not going to go over all of the aspects of New South Wales policy, but I think it is important to put on the record that the policy reforms of the New South Wales government in relation to vocational education and training have created additional opportunities for students in New South Wales and that there are more than 60,000 additional students who are able to be trained through the vocational education and training system in 2015 than would have been the case without the reforms of the Baird government.

You hear often in some of these debates, it seems at present—we have heard it in several state elections—this argument of TAFE versus private providers, this seeming argument from those opposite that contestability is the problem with the system today. Contestability is not new and private providers are not new. Private providers have been in existence for decades in the vocational education and training market, and contestability has been part of the New South Wales VET market for the last 20 years or so, so it is not a new thing that has been brought about; it is a change in the way some of these policies have been managed.

The New South Wales government's policy—Smart and Skilled, as I understand it is known—includes significant additional support for students with special needs, quite to the contrary of what Senator O'Neill was claiming and including generous fee exemptions, concessions and loadings to providers to fund additional support needs. Once again, it is important to note here that, when TAFE is the body providing support for those students with special needs, TAFE gets the additional loadings, fee exemptions and concessions flowing through to TAFE. If it is a private provider providing those extra services, they presumably get exactly the same level of support under that scheme. There is as well additional community service obligation funding provided to TAFE and adult community education to provide support services, specialist staff and hire equipment costs, once again notice that the government in New South Wales has acknowledged that there are some courses that require more expensive equipment, that are more expensive to run, and therefore there is support in place for that.

You would also be forgiven for thinking that the only fee increases ever seen have occurred in the last four years in New South Wales, yet under the previous New South Wales Labor government fee increases in excess of 200 per cent were seen over all award levels and certificate IVs had increases in excess of 500 per cent. So it is quite the height of hypocrisy for Senator O'Neill to come in here and claim that fee increases are something new.

But we are not here tonight to debate the New South Wales election campaign. Senator O'Neill can do that in an adjournment speech if she wants to. We are here to deal with some legislation that is before the House which is part of a number of reforms our government is taking to strengthen the operation of vocational education and training in Australia. But I do want to make sure that those reforms are put in context and that we acknowledge the point that we started from firstly in relation to the debate around contestability and secondly in relation to VET FEE-HELP.

The situation around contestability of training services in Australia is one that has been informed most markedly in recent years by the 2012 national partnership agreement that was entered into between the Commonwealth and the states. It was that 2012 national partnership agreement that set in train waves of reforms relating to contestability and indeed provided funding that encouraged such activity. And who was in government in 2012 when those
arrangements were put in place? It was the former Labor government that existed—the government that Senator O'Neill, Senator Bilyk, Senator Brown and other contributors to this debate were all members of. They put in place the framework around contestability that has been applied in recent years. Contestability is not a bad thing, but it is how you do it and how you regulate it that matters most to making sure you get the optimal outcomes for students and for our training system.

In the space of VET FEE-HELP, the income-contingent, HECS-style loan that is available for vocational education and training students operating at a diploma or advanced diploma level, it is, of course, an even more contemptible approach we have seen from the Labor Party. While it was the Howard government that established VET FEE-HELP in 2007, it was established with very tight parameters and regulations around it. It was established in a way that you could only access VET FEE-HELP for courses where there were established credit transfer arrangements in place to ensure that your diploma or advanced diploma work would be recognised by a university were you to proceed on to university. It was a perfectly sensible and correct policy decision to step away from credit transfers as the only test for VET FEE-HELP, and in that sense I support the policy decision taken by the previous government to abandon the link to credit transfers. The problem was that, in taking away that link, the previous government left absolutely no regulatory safeguards in place whatsoever in relation to VET FEE-HELP.

Just as when they decided to roll out home insulation across the country and basically said, 'Free money to install home insulation systems around the country,' it seems they did the same when it came to providing diplomas or advanced diplomas through vocational education institutes. They basically put up a flashing sign that said: 'Free money. Come and take as much as you want under whatever terms if you happen to sign somebody up to start a vocational education diploma or advanced diploma.' No matter whether that person had the capabilities to do it and the intention to complete it or whether the diploma was of sufficient standard to be able to be completed, they just put in place an open honeypot to which they encouraged all the bees to come and take as much seemingly as they wanted.

We have taken steps to address this and taken steps to address real concerns about the quality of training in Australia at present. Overwhelmingly, it is my view and the government's view that private training providers, public training providers and not-for-profit community sector training providers are providing high-quality training in the vast majority of instances, giving millions of Australians worthwhile qualifications to take through their employment careers and lives. But there are a number who have been rorting the system who are not producing sufficient high-quality outcomes, and we are taking action to fix that. The reason we have this problem is due to the complete inadequacy and incompetence of those opposite in setting up the training systems that this government have inherited.

We have not been sitting around doing nothing until my announcements in relation to VET FEE-HELP last week. This government have taken a series of steps to make sure that we strengthen quality in our training system, that we protect the taxpayer from waste of money and that we look after vulnerable Australians and ensure that they are not taken advantage of. Firstly, when the Minister for Industry had responsibility for the skills portfolio, he put an additional $68 million of funding into the Australian Skills Quality Authority, ASQA, the national regulator. He did that to step them away from what the previous government had said
needed to be a self-funding model. If it had been a coalition government that had said that ASQA needed to move to a self-funding model, in making her contribution in this debate, Senator O'Neill would say: 'That's the difference between the Labor Party and the Liberal Party. The Liberal Party just think that you need to self-fund all these things and will not invest in quality. The Labor Party believe that you should invest in quality, that funding should not be taken out and make them self-funding.' Of course, the Labor Party were the ones that took funding out of ASQA and said: 'You must become self-funding. You must focus on how you can charge fees through the training system and on how you can generate revenue. They are the priorities you need to worry about, National Regulator.'

We have said that we think there is a problem in the system and that the national regulator needs to be funded to focus on auditing problem areas, that it needs to direct its resources wherever it possibly can to risk-based approaches—generating the datasets where they can identify where high-risk activities are taking place and undertake the auditing and assessment in those high-risk areas. That is why this government have proudly put an extra $68 million into ASQA to make sure that they have the resources required to stamp out bad practice.

Minister Macfarlane also recognised that there was a significant problem in the sector where brokers and third-party agents were representing training providers and those representational arrangements had no transparency around them. So he put in place new regulations which commenced on 1 January this year for new providers and will commence from 1 April this year for existing registered training organisations. Those new regulations require that they have a transparent, contractual arrangement between any third party broker and any registered training organisation so that the public, the regulator or anybody else is able to identify very clearly who a broker is acting on behalf of and who is ultimately responsible through the training system for those actions—namely, the registered training organisation. Those are two significant reforms this government have already taken. The third is the legislation we are debating today to which I will return shortly. The fourth are the reforms to VET FEE-HELP that I announced last week.

The reforms to VET FEE-HELP attempt to break the business model of those who are rorting the VET FEE-HELP system. I am quite unashamed about the fact that I hope that those reforms will drive some third-party brokers and agents out of the system, and potentially out of business, as well as any RTOs registered for VET FEE-HELP who are overly reliant on dodgy marketing practices and who are offering inadequate training. We have taken a strong stand there.

We will have in place by 1 April complete bans on up-front incentives and on free giveaways—no more free iPads, no more free laptops, no more meal vouchers and no more cash incentives to sign up. There will no longer be the ability for a broker, a third-party agent or an RTO to doorknock at the homes of vulnerable people and say, 'Just sign on here, you'll never have to pay off that loan' or 'This is actually a free grant and you'll get a free iPad or some other giveaway.' If Australians are signing on for a VET FEE-HELP loan, if Australians are signing on to register in a training course then the only thing they should expect to get from that training course is quality training, not any giveaway as a result. We will outlaw the giveaways effectively from 1 April.

We are also taking steps through the VET FEE-HELP reforms to make sure that those who offer miraculously short courses are no longer able to do so. If it is transparently obvious to
anyone that the competencies and skill sets that should underpin a course cannot be met within the time then that will not be possible. In particular, there must be multiple units of study attached to a course and, with that, there must be multiple options for a student who is not progressing or does not wish to progress through each of the units of study to opt out before incurring a debt with the other units of study. No longer will it be possible for somebody to have the entire cost of their diploma or advanced diploma billed up-front to their VET FEE-HELP account. The fact that it ever was is quite a remarkable oversight by those who originally designed the system. It is worth noting that complaints about some of these practices were received way back in the days of the previous government, who failed to act in any regard. Those opposite have said: 'The coalition have acted belatedly in this area. They have not taken action fast enough. We are pleased to see they have adopted the Labor Party’s approach.' The Labor Party's approach is an inquiry by the Auditor-General. I welcome that inquiry. I look forward to what it says. It may provide further ideas about how we make sure that this sector is regulated adequately.

Before the announcement I made last week, however, never had I heard the Labor Party say it was their policy to ban up-front inducements or incentives. Never had I heard them say that they were going to make changes to deal with the levying of fees in one hit up-front. Never had I heard them say they would eliminate the miraculously short courses. The Labor Party had a policy for an inquiry—but no courage to deliver the necessary reforms.

Senator O'Neill also tried to make light of the fact that, in announcing these reforms, I had said we would have a rolling campaign to implement them. I promised her that I would explain that statement. It is a fairly simple explanation. Some of the reforms I announced last week, such as the banning of inducements, can be put in place through changes to the VET FEE-HELP guidelines. They can be enacted quite quickly. Some of them require changes to regulations, which will take a little longer as they require some legal drafting. Finally, there is the tougher penalty regime I want to put in place. This regime will ensure we have a suite of penalties available to us. At present, we have only the relatively crude options of either saying to the RTO, 'You have been a naughty boy—please correct your behaviour', or deregistering them, which means throwing out all the students who are studying there. In between those options, we need some financial penalties and we need to be able to ensure that all the laws are enforced. Those changes will require legislation—which, as all in this place know, can take a little while to get through. That is the rolling campaign. But I am determined that all of the reforms announced last week will be in place by 1 January next year, with the last, I expect, being those components that require legislation.

That brings me back to the legislation before the parliament tonight. This is the third of the government's four pillars of reform to strengthen quality in vocational education and training. The reforms in this bill are relatively straightforward. Firstly, the bill will provide for the minister of the day to make a quality standard. The quality standard will allow far more rapid responsiveness in relation to RTOs than do the current arrangements. At present you have to go through a cumbersome process of getting formal agreement from all of the states before a regulation can be adopted. We will of course consult with the states about the making of any quality standard, but this provision will allow faster action on any identified problems.

Secondly, this bill will strengthen arrangements relating to brokers and third parties. It will make sure that they have to clearly identify the RTO that is providing the qualification.
Thirdly, it will extend the registration period for registered training organisations from five years to seven years. This will enable ASQA to spend less time undertaking reregistration audits, which are entirely predictable and which RTOs can plan for, and more time dedicating the extra resources this government has given them to targeted, risk based audits in areas they believe to be of high vulnerability. Finally, there a range of minor consequential amendments.

This government is committed to the vocational education and training sector. We will spend about $6 billion this year supporting VET activities. It is a record sum when you include the income-contingent loans that are being made available and it will continue to grow over the forward estimates—even with the changes we have made today to ensure we stamp out the rogue operators and those who are doing the wrong thing. We know that VET can change people's lives and that some three million Australians access VET courses every year. Our determination is to make sure that, unlike those opposite, we provide quality in the system and the appropriate regulation to guarantee that quality—to ensure that everyone who is in training receives quality training that benefits their future employment prospects and our economy. (Time expired)

Question agreed to.

Bill read a second time.

Third Reading

The ACTING DEPUTY PRESIDENT (Senator Seselja) (19:57): As no amendments to the bill have been circulated, I shall call the minister to move the third reading unless any senator requires that the bill be considered in Committee of the Whole.

Senator BIRMINGHAM (South Australia—Assistant Minister for Education and Training) (19:57): I move:

That this bill be now read a third time.

Question agreed to.

Bill read a second time.

Fair Work Amendment Bill 2014

Second Reading

Debate resumed on the motion:

That this bill be now read a second time.

Senator CAMERON (New South Wales) (19:57): Labor opposes the Fair Work Amendment Bill 2014. This bill is yet another example of the Abbott government's failure to keep an election commitment. The election commitment of the Abbott government in this area was to go no further than what had been set out in their pre-election policy material—yet another commitment now on the election promise scrapheap! This bill is another example of the Abbott government's ideological opposition to collective bargaining. We know all about the opposition to collective bargaining and workers' rights that permeates the coalition. This bill is another example of the Abbott government's determination to weaken and eventually destroy effective trade unionism in Australia.

We should not pretend that this bill is about some minor amendments to the Fair Work Act. This is part of an overall strategy by the coalition to destroy collective bargaining and destroy the rights of working people in this country. It is part of the government's suite of bills to
reshape industrial relations by empowering employers and the big end of town at the expense of employees.

This is a government who made the promise prior to the election that it would go no further than its pre-election promises, yet what do we see here? Another broken promise. This is a government that cannot be trusted. I think that the Australian public are over this government. They do not trust this government, because they have seen what this government is doing on education, on health, on pensions, on welfare, and to the ABC and SBS. These are all areas that this government said it could be trusted on. Well, the public has absolutely no trust in this government. It really is a government of incompetence, chaos and division. We see that incompetence played out on the front pages of newspapers every day. We see that incompetence in the House of Representatives. We see that incompetence here. We see policies being ditched and we see barnacles being scraped off; the scraper is going so hard that the hull is now paper thin and about to puncture. This is a government that is chaotic and incompetent.

The division in the coalition does not lead anyone to have any confidence that this government will ever adopt policies based on fairness and integrity. On economic issues, on budget issues and on industrial policies, this government cannot be trusted. Through this legislation, the government wants to provide more power to the already rich and powerful in this country. It wants to create more insecurity for the poorest in this economy. It wants to create more uncertainty and fewer rights for the working poor and for the workers who can actually collectively bargain and stand up for their rights. This government wants to diminish all of those issues. This really is about promoting more income insecurity for ordinary workers in this country. I will come to some of the reasons for that, further down the line.

The purpose of this bill is, supposedly, to implement the recommendations of the Fair Work Act review and to implement election commitments. Well, the government is not implementing the recommendations of the Fair Work Act review. This legislation goes further than the government's pre-election commitments, and it ignores some of the checks and balances in the Fair Work Act review. Again, this is a demonstration that this government cannot be trusted even to implement its election promises.

There are substantive amendments to the Fair Work Act in this bill. There are substantive amendments to greenfield agreements, to union rights of entry and to individual flexibility agreements. There are some detailed issues in the structure of the bill and there are two schedules to the bill. Schedule 1 contains the substantive amendments to the Fair Work Act and schedule 2 deals with application and transitional matters relating to those amendments. Schedule 1 consists of 10 parts. Parts 1 to 3 make amendments to the National Employment Standards in part 2-2 of the Fair Work Act in order to deal with unpaid parental leave, annual leave and preventing employees from accruing and taking annual leave or any other type of leave while absent from work and in receipt of workers compensation.

Part 4 amends part 2-3 and part 2-4 in relation to the requirements for flexibility terms in modern awards, and the enterprise agreements and individual flexibility agreements made under those terms. Amongst other things, it will allow employers and employees to make IFAs about when work is performed, overtime rates, penalty rates, allowances and leave loading, if these matters are dealt with in the particular enterprise agreement. We know that the employers are doing the bidding of the Abbott government by raising their voices about
penalty rates and, vice versa, that the Abbott government is doing the bidding of employers on the issue of penalty rates. If you reduce penalty rates then you reduce the costs of companies, and in my experience that simply means more money to the chief executive and the big end of town. So we are not prepared to accept this proposal.

Part 5 amends part 2-4, 'Enterprise agreements', and introduces changes to greenfield agreements. It says:

… where agreement cannot be reached with a union within three months, a business will be able to apply to the Fair Work Commission for approval of the agreement.

What this means is that the employer simply gives three months notice that it wants to reach an agreement and there are no checks and balances in terms of the bargaining process: it can simply give that notice, walk away or get some high-paid lawyer to argue that it has been bargaining in good faith, and then go to the Fair Work Commission to have the agreement approved. It really is the employer bargaining with itself.

Part 6 of schedule 1 to the bill amends transfer-of-business provisions in part 2-8 of the act and provides that there will not be a transfer of business under that part when an employee voluntarily moves between associated employers. That is a real problem, because it means that you could have no option but to move to that associated employer and lose all of the entitlements that you would have under the redundancy agreement with the existing employer. It is simply about allowing employers to get away from paying out the rightful accrued entitlements of an employee.

Part 7 amends the provisions dealing with protected action in ballots, in part 3-3, and it provides that an application for protected action cannot be made unless bargaining has commenced. This is one rule for the unions and another rule for greenfield sites for the employers. The hypocrisy is huge.

Part 8 tightens the right-of-entry framework, in part 3-4, by narrowing the eligibility rules for entry for discussion purposes. It repeals amendments made by the Fair Work Act 2013, it reinstates pre-existing rules regarding the location of interviews and discussions and it changes the Fair Work Commission's capacity to deal with disputes about the frequency of union visits to premises for discussion purposes. This is about the ideological view that there is no room for the union movement to represent its members at the enterprise in this country. It is about trying to stop workers having representation from their union and it is about putting up as many barriers as possible to the union movement gaining access to represent its membership.

Part 9 provides that, subject to certain conditions, the Fair Work Commission is not required to hold a hearing or conduct a conference when determining whether to dismiss an unfair dismissal application under section 399A or section 587. So this again is about ensuring that the employer's position is bolstered under the Fair Work Act. And the Fair Work Act, if this gets up, cannot be called the Fair Work Act any longer, because it is not the Fair Work Act; it is an act in support of employers.

The 10th part provides that the Fair Work Ombudsman pay interest on moneys recovered by the Commonwealth for workers who were initially unidentified and then are later found and reimbursed. Parts 1 to 9 clearly are impediments to collective bargaining. They are impediments to workers being able to join and effectively engage in trade unionism in this
country. It is about giving more power to the employers in this country, at the expense of working people in Australia.

I came across an interesting article from the IMF, the International Monetary Fund, by Florence Jaumotte and Carolina Osorio Buitron. One is a senior economist and one is an economist at the IMF’s research department. Their paper is called Power from the people. It is an analysis of how the decline in trade union rights and trade union density means that more money goes to those at the top of the tree in the countries where unionisation declines. When you see the IMF look at these issues, you then understand the problem that we are facing in this country—that the ideological position of the coalition is to diminish the power and capacity of the trade union movement, to give more rights to the employers so that the employers are more well off, mainly at the chief executive and director levels, at the expense of ordinary workers in this country. When the IMF start to see this, you know that there is a problem. They say:

… the most striking development is the large and continuous increase in the share of total income garnered by the 10 percent of the population that earns the most …

So you decline union capacities; you decline union influence in the economy; the top 10 per cent get better off; and the bottom can please themselves. This is what the IMF is seeing, and this legislation that is before us is exactly the type of legislation designed to disempower workers and make sure that the top 10 per cent are better off and the bottom rung of the economy, the bottom rung of working people, are worse off. They go on to say:

Moreover, a rising concentration of income at the top of the distribution can reduce a population’s welfare if it allows top earners to manipulate the economic and political system in their favor.

That is Joseph Stiglitz quoted in the IMF paper. We see here how the top earners are manipulating the economic and political system in their favour. They are out there arguing to cut back penalty rates. They are out there arguing to lower minimum rates. They are out there arguing to keep unions out of the workplaces because, if they are successful in that, then what happens? The top 10 per cent become more wealthy, at the expense of ordinary Australians. The IMF document says that economic research has recently focused on:

… the effects of institutional changes, with financial deregulation and the decline in top marginal personal income tax rates often cited as important contributors to the rise of inequality. By contrast, the role played by labor market institutions—such as the decline in the share of workers affiliated with trade unions and the fall in the minimum wage relative to the median income—has featured less prominently in recent debates.

The authors say:

We examine the causes of the rise in inequality and focus on the relationship between labor market institutions and the distribution of incomes, by analyzing the experience of advanced economies since the early 1980s.

This is not an analysis of some small, isolated economy. These are the top economies in the world being identified by the IMF as a problem. When you take away the rights of ordinary working people, it then goes to the top 10 per cent. They say that:

… the main channels through which the labor market institutions affect income equality are the following:

Wage dispersion: Unionization and minimum wages are usually thought to reduce inequality by helping equalize the distribution of wages.
They say: 'economic research confirms this.' So what do this mob across here want to do? They want to stop that happening. The authors go on to say:

Unemployment: Some economists—and we have heard them argue over here, not that there are any decent economists over on the other side of this chamber—argue that while stronger unions and a higher minimum wage reduce wage inequality, they may also increase unemployment by maintaining wages above "market-clearing" levels, leading to higher gross income inequality. But the empirical support for this hypothesis is not very strong …

So, on the argument of keeping wages low, the IMF are actually saying there is no empirical evidence for that; or, if there is any evidence, it is not strong. This legislation—this package of legislation that has come before the Senate—is designed to make sure they look after the big end of town at the expense of ordinary workers. The authors talk about redistribution. They say:

Strong unions can induce policymakers to engage in more redistribution by mobilizing workers to vote for parties that promise to redistribute income or by leading all political parties to do so.

A clear example of that is the budget. This combination of the budget—the unfair budget; the budget based on lies—along with these attacks on workers' rights and conditions, as epitomised in this piece of legislation, is all about an ideology. It is not based on empirical evidence such as the IMF is looking at. It is not based on the welfare of ordinary Australians. It is based on this ideology—this economic argument that, if you reduce wages and you reduce conditions, you will create more jobs and open up the economy for more people. The IMF is saying that is flawed. But the mob over there on the other side of this chamber are too engrossed in their own problems to even worry about what the IMF is saying. They are too insular in their attacks on the trade union movement to worry about what the rest of the world is saying and the analysis that is out there.

This is another piece of unfair legislation from a government that has unfairness at its core. It is about workers being denied their rights to collectively bargain; about workers being denied their rights to effectively organise; and about ensuring the top 10 per cent—their mates that look after them and put money into their election accounts—are looked after at the expense of ordinary workers in this country.

Senator RICE (Victoria) (20:18): I rise to speak on the Fair Work Amendment Bill 2014. The Prime Minister used to say that Work Choices was 'dead, buried and cremated', but in reality this bill represents a return to Work Choices. It is not about giving people more flexibility. It is about giving bad employers even more power over vulnerable people, who are already in a worse position because of the unfair federal budget.

Most of us would think that an agreement applying in the workforce involves at least two people—at least two parties. But under this legislation an employer is now going to be able to agree with themselves about what legislation and minimum conditions would apply in their workplace. The provision about so-called 'greenfields agreements' says that if a business is about to start a new project—that might be to, say, dig up the minerals that all Australians own, because we only get to dig them up and sell them off once—and if they want to negotiate an agreement for wages and conditions over the course of that project when it gets up and running, all the employer needs to do is put a substandard agreement on the table and say, 'Here's what I want.' If, three months later, there has been no agreement they are able to
go to the Fair Work Commission and get the agreement ratified. They do not even need another party to the agreement. They just have to decide it themselves. I am not at all confident that a wealthy miner is going to look after its workers when it does not have to. It is going to pay the least it possibly can, and that is what this legislation allows it to do.

We have also seen this obsession of the government, which is reflected in this bill, about employees having access to their union representatives at reasonable times. In many workplaces, often the only way workers will find out about what their entitlements are is from a union representative who comes in and tells them, 'No, actually; there are laws to protect you and you are entitled to be paid properly as a member of the Australian community.' Yet what we see here in this legislation is a winding-back of the provisions that would allow someone to come in and give that explanation. We know that what some unscrupulous employers do at the moment, or have done in the past, is to say, 'Sure, you low-paid worker—you can find out what your minimum legal rights are. But I'll tell you what I'll do: I'll put the union representative, when they come during your lunch break, in the room next to my office and I'll just sit there with a clipboard making a note of every worker who comes in to get advice about what their minimum conditions are.' We all know what could then happen to those workers.

Currently, the law says you cannot do that. You must strike the right balance between not disrupting the workplace and allowing people to find out what their minimum entitlements are. That is abolished under this bill. When you think about this from the perspective of a vulnerable worker, who may not have English as their first language, how are they going to find out about their rights? They simply will not. That will be the practicality of it. That is exactly what this legislation is designed to do.

The bill tilts the playing field further in favour of powerful employers by allowing them to just sit there, fold their arms and say, 'We refuse to engage in discussions with you about an enterprise agreement.' Plus, it will take away the only thing that the employees have the right to do in that situation, which is their right to industrial action. At the moment, if your boss refuses to negotiate with you, you are allowed to say, 'We are going to start stop-work meetings,' or 'We are going to go on strike until you strike a deal with us.'

You would think that workers should be given the right to go to Fair Work and say, 'Look, we just cannot strike a deal and we have been trying; why don't you decide as the independent umpire?' But this bill does nothing of the sort. In fact, it does not allow them any help. It further ties their hands and allows the employer to sit there and say, 'I am just not going to negotiate with you.'

These are just some of the measures in this bill. There are others that say if you have happened to accrue annual leave loading and other reasonable measures during your time at work, and it turns out that you get sacked before you have had the chance to take them, do not expect to get your full entitlement paid out—you are only going to get part of it. These are measures that you have legitimately accrued during your time working for this employer.

When one looks at the other provisions, you can see that the government has gone back to the previous Fair Work review and just picked the eyes out of it, putting forward only those measures on the employers’ side of the ledger, but there is nothing there to balance it up on the other side. That is why the Greens will not be supporting this bill. Instead, if we get to a third reading of this bill, I will be moving some amendments, to remove these clauses of this
bill and, instead, substitute them with other clauses that would actually benefit working people in this country. The Greens want to improve conditions for working people, not just to have them desperately fighting to hang onto current conditions.

Senator Cameron: Well knock it off at the second reading then.

Senator RICE: We will try to, absolutely. We reckon a real Fair Work bill would tilt the tables the other way to genuinely make work fairer. Our amendments, if we get to the third reading, would give workers more job security and allow workers to have the flexibility that works for them, so that they can have the time off to pick up the kids, to drop them off at school or, perhaps, to look after a sick grandparent.

I want to spend some time talking about these amendments here and now because our amendments would actually create a bill that really was a fair work bill, that really would provide for flexibility. A big reason that we hear the term 'work-life balance' so much these days is because we have less balance than we should between the two; between the amount of time and effort and dedication to work as opposed to the rest of our life—family commitments, community commitments, time for exercise, leisure, doing activities that are good for our health, including sleeping. It did not used to be this way and it does not have to be this way.

The figures show that the average full-time working week in Australia is 44 hours—the longest in the developed Western world. Research shows that these sorts of working hours are impacting on our wellbeing, with poorer health and greater use of prescription medications. It is also affecting our personal and family lives. Sixty per cent of women say that they feel consistently time pressured and nearly half of men also feel this way. Almost half of all fathers in couple households work more than they would prefer, and one-third of women working full time would also prefer to work less, even taking into account the impact that this might have on their income. If you want to talk about flexibility then consider that, on average, full-time employees would like to work about 5.6 hours less per week, while part-time workers would like to work around four hours less than they are currently working. In addition, we work $72 billion of unpaid overtime each year as a country. It cuts the other way too. There are many people—though according to the studies a lesser number—who would like to work more hours than they are currently working but are unable to.

A 2010 study on the health and working conditions of approximately 78,000 working Australians concluded:

... it may be counterproductive for employers to expect long working hours as employees are likely to take more time off and work less efficiently.

The study also commented that there is considerable evidence of an association between work demands and poor health.

There is no doubt that many good employers already recognise the benefits of providing flexible working arrangements. However, this recognition is not as widespread as it should be. The Greens want people to have more control over their time and their working arrangements. We need a better match between the hours people want to work and the hours that they actually work. I note that the ACTU, prominent academics, Carers Victoria, government advisory bodies and many others have also advocated extending the right to request flexible working arrangements.
The current legislated mechanism to request flexible working arrangements is only available to employees who have caring responsibilities for children under school age, or children under 18 with a disability. Employers can refuse on reasonable business grounds, but there are no mechanisms for appeal. The mechanism is well-intentioned but it is narrow and unenforceable. It can be strengthened and it should be strengthened. If we had a bill with these measures included in it, it would be strengthened. The amendments we will move also reflect the Greens view that wherever possible enterprise bargaining and enterprise agreement should be the best mechanism for providing better industrial outcomes.

'Flexible working arrangements' would be inserted into the list of permitted matters that can be included in an agreement. In all instances, the right to request flexible working arrangements to all employees would be able to be refused by employers. The right to request would be strengthened for those with caring responsibilities with employers only able to refuse where there are serious countervailing business reasons. Ongoing employees must have performed a minimum of 12 months service before a request could be made. If an employee's request for flexible working arrangements was refused, Fair Work Australia would be empowered to hear an appeal and where appropriate make flexible working arrangement orders.

Allowing workers to have more control over their time would be a productivity bonus for the economy. Businesses would benefit from this reform, including employers who are already promoting flexible working arrangements so that employees can achieve a better work-life balance. Satisfied employees are likely to remain in a workplace longer, be healthier and be more productive. If people want to work different hours or to work from home so that their life is better, then the law should allow it and society should encourage it, provided that it does not unduly impact on their employer.

Our amendments recognise that carers play a special role in our society. Caring for those close to us must be a central concern for our society, and it is important for the economy. People need greater control over their time, not just to look after kids but also, increasingly, to look after parents and grandchildren, as well as foster children, people with disabilities and people with extended illnesses—the list goes on and on. For this reason, our amendments define 'carer' simply as an employee who has responsibility for the care of another person. In addition, as I have referred to, the bill raises the threshold test to serious countervailing business reasons before employers could refuse a request for flexible working arrangements.

There are more women working more hours in paid employment but there is still the unpaid caring to do. With caring still done predominantly by women, there is a growing double burden on women and their families. If we are serious about supporting women in returning to work after having had kids then we can and should do many things, not only expanding accessibility, quality and affordability of child care but also giving a legally-enforceable right to flexible working arrangements. As I have referred to, the provisions do not remove the capacity for managerial decisions to be made regarding working hours and working arrangements. If there were legitimate business reasons against a request it would be able to be declined.

These measures are not radical nor unprecedented. A number of countries have various types of legislative mechanisms for people to request flexible working arrangements, and a serious-countervailing-business-reasons test has been used in the Netherlands since the year
2000. A review of flexible working arrangement laws in Germany, the Netherlands and the UK showed that a number of valuable lessons had been learned and that a number of myths had been dispelled regarding the laws.

There was a reasonable, but manageable, level of requests. The Netherlands had the highest level of requests, with 14 per cent of employees, while the UK had only 3½ per cent and Germany recorded less than one per cent. But, significantly, the majority of the requests in each country were acceptable to employers. Costs were not a major problem with implementation, and sometimes even resulted in savings. In addition, very few requests ended up in dispute. In the Netherlands and Germany fewer than 30 requests per country resulted in court action in the first two years of the law. The overseas experience suggests that being obliged to provide flexible work for employees may in fact help companies by ensuring that they examine alternative models that they may not have considered previously.

If our amendments were passed, it would not undermine those very important industries and sectors, like fire fighters—and there may be many others as well—where control over working time is necessary to ensure that there is not industrial arguments between people working differing hours side by side in environments where harmony and consistency, and equality of payments and arrangements, are necessary. As I said, it would not override management prerogative. Our amendments would help to drive positive cultural change in relation to flexible working arrangements by providing a clear framework and criteria for requests. Importantly, they would begin to remove the stigma of fathers and mothers—indeed, anyone who has to care for another person and anyone who wants to have more control over their life—requesting that change.

We urge the Senate to reject this bill as it currently stands. But if it were to get to the third reading stage, our amendments would radically change the bill. We would want to see them supported to truly give workers the flexibility and work conditions that they deserve.

Senator SESELIJA (Australian Capital Territory) (20:34): I thank other senators for their contributions to this debate on the Fair Work Amendment Bill 2014, I think if only to highlight some of the absurdity that the Labor Party and the Greens continue to argue in this space.

It is always good to follow Senator Cameron, particularly when he is in lockstep with his Greens colleagues and arguing that what we really need to do to get prosperity in this country is to redistribute all the wealth. That was what Senator Cameron was arguing: it could have been written by Karl Marx himself. It was an extraordinary contribution, ignoring the progress we have seen not just here in Australia but in many other countries over the last 30 years in economic prosperity, which has involved flexibility. It has actually involved increased flexibility, which has led to increased wealth and increased prosperity right across the income scale in Australia. I will get to that.

Senator Cameron seems to believe that the only way to create prosperity is to redistribute wealth. Well, we happen to have a very different view. In response to Senator Cameron I will quote from the coalition's dissenting report into the extent of income inequality in Australia. There we quoted Professor Robert Lucas, who notes:

Of the tendencies that are harmful to sound economics, the most seductive, and in my opinion the most poisonous, is to focus on questions of distribution.

... ... ...
… of the vast increase in the well-being of hundreds of millions of people that has occurred in the 200-year course of the industrial revolution to date, virtually none of it can be attributed to the direct redistribution of resources from rich to poor. The potential for improving the lives of poor people by finding different ways of distributing current production is nothing compared to the apparently limitless potential of increasing production.

That is fundamentally what we are talking about. When Senator Cameron talks and gives his view of the world, and criticises the last 30 years of economic growth and reform, he is arguing, 'If only we'd gone down the path of East Germany, rather than West Germany. If only we'd gone down the path of Cuba, or down the path of the former Soviet Union, then we'd all be a whole lot better off.' I would say that virtually all Australians would realise the absolute folly of such an argument. It is about growing the economy, and in growing the economy we need policies that are fair but that encourage growth, that encourage productivity, that encourage prosperity; not look to simply redistribute an ever-decreasing pie. That appears to be Senator Cameron's argument and it is of course backed up by Senator Rice.

The coalition government is committed to building a strong economy. We are committed to dealing with Labor's legacy of debt and deficits. A key way we can build our economy and deal with this legacy is through boosting productivity. This bill will deliver on the coalition's election promise to improve workplace flexibility and to address the imbalance in union workplace access rules.

Unions represent 13 per cent of the private sector workforce and 20 per cent of the overall workforce, yet the previous Labor government did everything they could to increase union power and influence. And now we have seen the results of allowing unions free reign over workplaces.

Here is a very small snapshot: we saw eight days of unlawful industrial action by AMWU and CFMEU on a WA site, the Woodside LNG project, in 2008; we saw CFMEU officials threatened to stop work at a Lend Lease site in Adelaide if the union flag was not flown—they said, 'If you don't put it up there [union flag on the crane], we'll bring back ten brothers tomorrow and stop the job'; there were alleged threats of retaliatory disruptive industrial action if a Darwin building firm did not give in to CFMEU demands; a WA unionist unlawfully told CFMEU union members to stop work five times at the Probuild Construction site in Perth and unlawfully coerced subcontractors to enter an enterprise agreement with workers. Just this year, we saw a Western Australian union boss fined $35,500 for bullying workers and threatening to have one contractor's workers thrown off 'every construction site you're on in Perth', if they did not participate in a strike. The list goes on and on and on.

So, when Senator Cameron talks about 'more power to the rich and powerful', he could easily be referring to the likes of the CFMEU, because that is what the Labor Party did when they were in office. They gave more and more power to unions who, in the majority of cases, had far more power than the individual businesses or the individual employers who they happened to be dealing with. We know that that is particularly the case in places like Victoria, where the Andrews government is absolutely owned by the CFMEU—lock, stock and barrel—as is the Labor Party more broadly and, as we are seeing over time, the Greens.

The government has already introduced legislation to reinstate the ABCC to deal with some of these issues. We look forward to getting support for that bill. But they need to do the right thing on this issue as well. By restoring balance and fairness to the Fair Work system,
we will see less of this union thuggery and fewer damaging and unnecessary productivity losses through unions getting control of workplaces. This bill is in fact delivering not only on our election commitments, but on Labor's commitments from 2007. It also enacts a number of recommendations from the Fair Work review panel in its 2012 report, commissioned by the now Leader of the Opposition, Mr Shorten.

Through this bill we are restoring balance to the system in a number of ways. Firstly, we are improving the process for the negotiation of greenfields agreements, to ensure that unions can no longer frustrate bargaining for these agreements through unsustainable claims and delays, which can threaten investment and delay the commencement of major new projects that are crucial to our prosperity. Secondly, through this bill we are restoring union workplace access rules, reflecting those in place prior to Labor's unbalanced amendments, and dealing with excessive right-of-entry visits by union officials. The bill will also improve workplace productivity and flexibility by enhancing the scope for employees to make individual flexibility arrangements that meet their genuine needs, as determined by those employees. The bill will close the 'strike first, talk later' loophole in the good faith bargaining rules, which Labor refused to address. And, the bill will maintain the value of unclaimed wages held for workers by the Commonwealth.

The Fair Work Amendment Bill will address the current imbalance in union workplace access rules. Our changes will fairly and sensibly balance the right of employees to be represented in the workplace, if they wish to be, with the right of employers to go about their business without unnecessary disruption. The government sees right of entry as a specific statutory privilege to which conditions ought to apply. As we have seen with some of these examples, some union bosses do not.

In 2007, the Labor Party promised on multiple occasions that there would be no changes to the union right-of-entry laws. In a press conference on 28 August 2007, then Deputy Leader of the opposition, Julia Gillard said: 'We will make sure that current right-of-entry provisions stay. We understand that entering on the premises of an employer needs to happen in an orderly way. We will keep the right-of-entry provisions.' On 26 June 2007 Julia Gillard said: 'We would not want to see changes to the right-of-entry systems that jeopardise work performance.' These promises were not kept and unions were given much easier access to workplaces under the Fair Work Act provisions which were exploited.

This has meant that many businesses face excessive workplace visits from unions, even when their employees are not union members and have not asked for the union's presence. The problem has been exacerbated in some workplaces by unions competing to represent employees at the workplace. The problem was highlighted by the former government's Fair Work review panel, which noted that the Pluto LNG Project received over 200 right-of-entry visits in only three months. BHP Billiton's Worsley Alumina plant faced 676 right-of-entry visits in a single year. Our changes will reduce the capacity for unions to deliberately harass and disrupt businesses in this way.

A recent case featuring CFMEU National President Joe McDonald has underlined the urgent need for these reforms. In the most recent case, where Mr McDonald and the CFMEU were fined $193,600, he ignored consistent requests to leave a site owned by Citic Pacific's Sino Iron Ore in Western Australia. When asked to leave the site because he did not have a right-of-entry permit, Mr McDonald replied, 'I haven't had one for seven years, and that hasn't
stopped me'. Mr McDonald's attitude reflects the regrettable dark underbelly of the union movement that should have no place in modern and fair workplaces.

To be clear, these amendments will enact Labor's publicly stated promise prior to the 2007 election, a promise that was not honoured. Given that the Labor Party, in opposition, with the strong support of the union movement, supported this 2007 policy platform, we expect that these amendments will not be contentious. Most union officials will find that these changes will not impact their sensible approach to their right-of-entry activities. Currently, right of entry for discussion purposes can occur when the relevant union is entitled to represent the industrial interests of employees at the workplace. This means unions can enter and hold discussions even if they have no actual members at that workplace and no-one has sought their presence.

The bill will amend the provisions so that the ability for unions to enter a workplace will be tied to either a union's recognised representative role at the workplace or employees at the workplace requesting the union's presence. A union will only be entitled to enter a workplace for discussion purposes if (1) they are covered by an enterprise agreement or (2) they have been invited by a member or employee that they are entitled to represent. If the employee who would like the union to come to their workplace wishes to remain anonymous, a union will be able to apply to the Fair Work Commission for an invitation certificate. The Fair Work Commission must issue a certificate if it is satisfied that a worker who performs work on the premises and whom the union is entitled to represent has invited the union to the workplace to hold discussions. The certificate will not identify the employee who has made the request. This will restore the balance in the right-of-entry regime so that it is similar to the commencement of the Fair Work Act—that is, consistent with the bipartisan consensus at the time of the 2007 election.

This bill will also make amendments to provide clarity and certainty for employees around the use of individual flexibility arrangements. IFAs are an important tool introduced by Labor to allow employees to mutually agree on conditions that suit their needs, while ensuring employees are better off overall compared to their underpinning employment instrument. IFAs are important in helping workers manage childcare arrangements, caring responsibilities and other family or personal commitments. The reality is many people need this flexibility on a range of issues as they work and live their lives, but unions have been able to restrict this flexibility to only cover a single issue, such as taking leave. This means that workers might be denied IFAs on other matters even if their employer agrees to more suitable arrangements.

The amendments deliver on a promise made by Labor in 2007 to allow IFAs to be made in relation to all matters currently prescribed in the model flexibility term and will ensure these arrangements cannot be vetoed by union bosses. In 2014, when most families have parents who both work and single parents have to juggle work and family, it is astonishing that Labor were so beholden to their union mates that they did not allow for this flexibility. If you talk to, in particular, women who are juggling family responsibilities, that kind of flexibility is absolutely crucial. Safeguards remain in place to ensure workers are better off overall. The current legislation, enacted by former Prime Minister Gillard, already allows benefits that are non-monetary to be considered in whether an employee is better off overall under an IFA. These amendments simply clarify this matter and will provide certainty for employees and employers in these arrangements.
Prior to the 2007 election, the then Labor leader, Kevin Rudd, said:

… industrial disputes are serious. They hurt workers, they hurt businesses, they can hurt families and communities, and they certainly hurt the economy.

He also said, of employees:

They will not be able to strike unless there has been good faith bargaining.

But, under the Fair Work Act, employees are allowed to strike before bargaining has even commenced. The bill will amend the Fair Work Act to provide that protected industrial action can only be taken if bargaining for a proposed agreement has commenced. This amendment will mean that industrial action cannot be the first step in the bargaining process, restoring a balanced and harmonious approach to enterprise bargaining. The coalition will fix this loophole, and, in doing so, Labor's 2007 promise will finally be implemented.

This bill also deals with what amounts to union veto power over greenfield arrangements, which has enabled them to delay and frustrate these projects by seeking exorbitant wages and conditions or refusing to agree to anything at all. These delays are bad for the economy and bad for workers, who are denied an opportunity for a job because these projects cannot get off the ground thanks to unreasonable union demands. We need to encourage investment, and businesses will not invest in projects when unions are making unreasonable and unsustainable demands about wages and conditions.

This bill will extend good-faith-bargaining rules to the negotiation of greenfields agreements to improve standards of bargaining conduct. This good-faith rule means that unions and employers need to attend meetings and respond to requests in a timely manner. There will also be an optional three-month negotiation time frame that applies when the employer and the union give appropriate notice. Again, this is a fair and reasonable measure. Employers and unions should be able to come to the table and negotiate in good faith and get a reasonable outcome. We need to unlock new investment and give certainty to businesses that can create jobs and grow the economy. That cannot happen if there are needless delays in negotiations. These amendments will send a strong message to investors overseas that Australia is open for business.

In conclusion, this legislation, in large part, simply seeks to implement what the Labor Party promised they would do, prior to the 2007 election. They failed to honour that promise. What we have seen over the past few decades, contrary to the assertions of Senator Cameron earlier, is incremental and sensible labour market reform which has led to greater prosperity in our nation. Some of that has been implemented by the Labor Party and some of that has been implemented by coalition governments. To argue, as Senator Cameron has, that, as a result of any sort of flexibility or anything that in any way curbs excessive union power, workers would suffer, is absolute rubbish and is absolutely contrary to the lived experience. The lived experience is that these kinds of sensible improvements have led to higher wages, better conditions and greater prosperity. That is surely what we should be aiming for as a nation. This bill goes some way towards that. These are sensible amendments and they deserve to be supported by the Senate. I commend the bill to the Senate.

Senator BILYK (Tasmania—Deputy Opposition Whip in the Senate) (20:52): Another day, another broken promise from the Abbott government. The Prime Minister, Mr Abbott, promised Australians before the election that Work Choices was dead, buried and cremated, although not necessarily in that order. He promised the Australian people that amendments to
the Fair Work Act would not go any further than the government's pre-election promises. And he promised that the government would implement specific recommendations from the 2012 Fair Work Act Review. This bill, the Fair Work Amendment Bill 2014, breaks all three of those promises. The problem with the government, with the Liberal Party and their coalition colleagues, is that they just cannot help themselves. The race to the bottom on workplace relations is in their blood. It is part of their DNA. It is who they are and who they will always be: strident opponents of workers rights.

The government, before the election, promised to return to the sensible centre on workplace relations, but this bill is a lurch to the right. The sensible centre was already established with the Fair Work Act. If those opposite wish to claim, in opposing this bill, that Labor is beholden to the union movement, they would do well to remember that neither unions nor business were entirely happy with the concessions that were made in drafting the Fair Work Act. Rather, what the government are showing by bringing forward this bill is that they are beholden to the ideologues who favour the deregulation of workplace relations in Australia. They are beholden to their mates in big business, supported by their cheer squads in the Murdoch media and the Institute of Public Affairs.

There are a number of areas in this bill in which the government are going beyond their pre-election promises, but the three I wish to focus on in my contribution tonight are individual flexibility agreements, greenfield agreements and right of entry. Let us begin with individual flexibility arrangements. Labor first introduced the IFA framework in 2009, and we introduced IFAs because we agree that flexible work practices can deliver benefits to both employees and employers. However, we did not intend IFAs to be a tool for employers to impose on unsuspecting employees as a means of ripping away conditions such as penalty rates. That is why we put in place safeguards to ensure that low-paid and vulnerable workers were protected. IFAs swap a fairly insignificant monetary benefit for a non-financial benefit. These arrangements are now in place across the majority of enterprise agreements in Australia, and the system is fair and equitable for both parties.

The government wants to establish the model flexibility term as a minimum for all enterprise agreements, but data cited by the Fair Work expert panel already demonstrates that the majority of enterprise agreements provide as much flexibility as, if not more flexibility than, is provided by the model flexibility term. The Fair Work Act Review expert panel recommended that IFAs allow for a non-monetary benefit to be conferred in exchange for a monetary benefit. In doing so, they said the value of the monetary benefit forgone must be 'relatively insignificant', and the value of the non-monetary benefit must be 'proportionate'. However, neither of these terms are included in this bill.

Labor believes it is extremely unfair to allow workers to be coerced into trading away significant amounts of take-home pay in exchange for non-monetary benefits. This provision would make low-paid workers particularly vulnerable, particularly when the arrangements are proposed by employers and the employee may not fully understand the value of what they are trading away and what they are receiving. I would like to ask those opposite: are we going to see agreements like those we saw under Work Choices with Spotlight, where workers ended up trading away their penalty rates, incentive based payments, overtime rates, annual leave loading and holiday pay for a pay increase of a paltry 2c per hour? I worry that this amendment opens the door to employers to strip away entitlements such as penalty rates from...
low-skilled, low-paid, vulnerable workers in exchange for token non-monetary benefits. Unless the government is going to implement the expert panel's recommendation in full, there is no way that Labor can accept this amendment.

It is interesting to note that the government, in picking and choosing the expert panel recommendations they have adopted, have omitted an important safeguard for employees. There is nothing proposed in this bill to implement the recommendation that the Fair Work Ombudsman be notified of the details of any IFA made, and the panel itself said that this would enable the Fair Work Ombudsman to investigate whether these arrangements were being abused by an employer or a group of employers.

The government has also included a requirement for employees to provide their employers with a 'genuine needs' statement, which is intended to capture an employee's state of mind at the time the IFA was agreed to. The government is passing this off as an employee safeguard, whereas it actually provides employers with a deferred defence to any future claim that they contravened a flexibility term in agreeing to an IFA. While a defence to an alleged contravention of a flexibility term was recommended by the expert panel, we on this side of the chamber would contend that the amendment is not in the spirit of the recommendation, as it is heavily weighted towards employers.

The government's proposed amendments to greenfield agreements give employers an absolute advantage when it comes to negotiating an enterprise agreement. Employers will gain absolute control over which unions they choose to negotiate with. After an employer agrees to bargain with an employee organisation, the employer at any time could issue a notice to commence a three-month notified negotiation period. During this period, an employer can basically walk away from the negotiation table and simply wait for those three months to expire, after which time the employer, and only the employer, can take the proposed agreement to the Fair Work Commission for assessment and approval. In no-one's language is this a genuine negotiation between employers and employees. This is a framework for allowing employers to negotiate with themselves.

Finally, I come to the right-of-entry provisions. Labor sought to establish right-of-entry provisions which are not weighted too heavily in favour of unions or employers, but in this bill the provisions are weighted heavily in favour of employers. The government has included a provision which requires the Fair Work Commission, when resolving disputes about the frequency of visits, to consider the combined impact on the employers' operations. This is clearly intended to exclude all unions from a site when only one union has been found to have entered too frequently. It punishes all unions for the actions of one.

The government claim that they are adopting a recommendation of the expert panel to provide Fair Work Australia with greater power to resolve disputes about the frequency of visits, but they are actually going well beyond that. Labor also has concerns about the invitation certificate process the government are proposing. The government suggest that, if an employee would like their union to come to their workplace and they wish to remain anonymous, the union must apply to the Fair Work Commission to obtain an invitation certificate. In a small business especially, this risks exposing employees who have requested a union visit to a small business. Even though the request can be made anonymously, it would not be too hard, in a business with just a handful of employees, to find out who made the request.
Also on the issue of right of entry, I will make some comment on the government's proposal to remove provisions which help facilitate union visits to work sites. The government are claiming that employers have to pay for the cost of 'union boss joyrides to remote work sites'. What they will not tell you is that employers are only required to facilitate access when their premises are not readily accessible by transport other than that provided by the employer, or the nature of the premises means that the union official has to stay overnight yet the only accommodation that is reasonably available is that provided by the employer. Employers are not required to pay such expenses unless they choose to. Removing this provision will make it physically impossible for union representatives to visit certain workplaces. It will create two classes of workers: those who can be visited at work by a union representative, and those who cannot. As someone who used to be involved in training programs for a union on workplace health and safety, I can attest to how important I consider workplace health and safety but also to how vital right of entry provisions are to overseeing health and safety in workplaces where it is not being properly adhered to.

As I said before, these changes represent a broken promise on workplace relations. They were not announced by the government before the election, and they are not, as the government would have you believe, implementing the recommendations of the Fair Work Review. So why are the government breaking their election promises on workplace relations? Why are they seeking once again to undermine the rights and conditions of workers in a race to the bottom on labour standards? Why do they insist on continuing this ideological crusade, which the Australian people so comprehensively rejected in 2007?

When I spoke earlier this year on the government's draconian job seeker compliance legislation, I explained that they were looking for a scapegoat for their failure to create jobs. When they introduced that bill, their scapegoat was job seekers, but they have found a number of other targets, including our workplace relations system. The government made the very modest promise to create one million jobs over five years, a promise which I think they have gone very quiet on lately. But, after a year and a half of the Abbott government, we have 80,000 more Australians in the unemployment queues than when Labor left office.

By contrast, Labor created almost a million jobs during our six years in government following the largest economic downturn since the Great Depression. We left office with unemployment at 5.8 percent. It is now up to 6.3 per cent. The last time it was at that level was when Mr Abbott was the minister for employment. Labor grew Australia's economy from the fifteenth to the twelfth largest in the world, and it was Labor that achieved a AAA credit rating from all three ratings agencies, something that was never, never achieved under the Howard government. Despite the rhetoric from the doomsayers opposite, Labor had a strong economic record even with the challenges of the global financial crisis.

But, under the Abbott government, business confidence and consumer confidence are down, and the government's budget strategy is falling to pieces. I would suggest to any of the Tasmanian senators from the other side that, if they want to see very quickly some examples of the loss of business, they should come to Kingston, south of Hobart, where half the shops have now closed in the past 12 to 18 months and people have just walked away from businesses. Australia's per capita gross domestic product has fallen from the eighth largest in the world to the fourteenth.
So it is no wonder that the government are looking around to find scapegoats—anyone they can blame for their own failure to create jobs and economic growth in Australia. They blame the unions and call an expensive and wasteful royal commission, trying to make out against all evidence that corruption is widespread within the union movement. They blame government spending, yet the Abbott government doubled the deficit after coming to office. They blame a price on carbon, even though an open letter signed by Australia's leading economists says that a price and limit on carbon pollution is the most economically efficient way to reduce emissions. I am still somewhat surprised carbon pricing was rejected by the Liberals when market based solutions are part of their core ideology. They blame job seekers, portraying them as bludgers who are cheating the system and not trying hard enough to find a job. They ignore the fact that job seekers need proper assistance and training to find employment, not just more penalties. And they blame people on the disability support pension, but once again their approach is all stick and no carrot. With the release of the Intergenerational report, the most heavily politicised IGR in history, they seek to blame older Australians, claiming our pension and health care systems are unsustainable while all the evidence is to the contrary. With this bill, they are blaming Australia's workplace relations system, ignoring the fact that labour productivity actually went up, not down, with the introduction of the Fair Work Act.

If the government want to know the real reason why business confidence has stalled—if they want to know the reason why they have been such a failure on job creation—they do not need to look to unions. They do not need to look to the unemployed, people with disability or seniors. They do not need to look to Australia's response to climate change. They need to look in a mirror.

After all, this is the government which Morgan Stanley said was damaging confidence in the Australian economy through its 'alarmist budget narrative'. I will just repeat that: through its 'alarmist budget narrative'. This is the government which has made every effort to avoid having infrastructure programs independently assessed by Infrastructure Australia to find out what economic benefit they would actually deliver to Australia. In fact, it has failed to implement its pre-election promise to conduct an independent cost-benefit analysis for projects valued at over $100 million. And the same government has been running around the country, announcing billions of dollars of Labor infrastructure projects and trying to claim them as its own. This is the government which tried to play chicken with Australia's auto industry and lost, resulting in the loss of tens of thousands of jobs in automobile and parts manufacturing.

This is also the government which is going to give Australia a second-rate national broadband network consisting of outdated HFC technology and a 100-year-old copper network. This will cripple our economic opportunity in ICT and the businesses which rely on it, while other countries move ahead in leaps and bounds with their optic fibre rollouts. Australia has already dropped to the 44th lowest in the world in average peak broadband connection speeds. It is a shame.

And yet this is the government which is ripping money out of higher education and wants to make students pay thousands more for university degrees. This is the government which rejects science, and was until recently the first government since 1931 not to have a science minister. They have defunded the Climate Change Authority and gutted the CSIRO, sacking
one in every five of its scientists. The CSIRO is the organisation which recently netted the government $430 million in royalties from the invention of wi-fi, a technology that is now used worldwide in the daily lives of millions. And this is the government which failed to allow Australian companies the opportunity to tender for our submarine fleet and build our submarines in Australia by Australian workers.

The fact is this government does not understand that the key to economic success is economic productivity. They failed miserably to understand that the key drivers of productivity are education and training, innovation and infrastructure. Despite what this government would have us believe, there is not a significant problem with our workplace relations system. You just need to look at Australia’s labour productivity as evidence for that. When was the highest growth in labour productivity in the past ten years? It certainly was not under Work Choices. No, it was in 2012, under the Fair Work Act, and under the Fair Work Act industrial disputes are down. There was a quarterly average of 13.5 days lost to industrial disputation under the Howard government. Under the previous Labor government—guess what—it was only 4.6 days.

And the government's claim that Australia faces a wages explosion is completely bogus. The latest increase in the wage price index was 2.6 per cent, below inflation. In fact, the real wages breakout was that in the pay of top executives. Until Labor's reforms to statutory executive pay, the salary of top CEOs was out of control, growing 130 per cent between 2001 and 2010. By contrast, inflation had grown 28.6 percent and average weekly earnings by 52 percent.

While Mr Abbott has such a tenuous grip on his leadership, even when he is scraping off the barnacles of his unfair GP tax and unaffordable paid parental leave scheme the urge to reintroduce elements of Work Choices is irresistible to him. This Liberal government under any leader will always be compelled by their Pavlovian instinct to cut the wages and entitlements of Australian workers. They simply cannot help themselves. But the truth is that Work Choices is far from being 'dead, buried and cremated' as the Prime Minister claimed before the last election. It is merely resting.

Senator McGrath (Queensland) (21:10): It gives me great pleasure to stand up here tonight to talk to the Fair Work Amendment Bill 2014 and support this very important piece of government legislation, particularly as this bill, like many of the actions that this government is undertaking, delivers on key aspects of our election policy, in particular in relation to industrial relations reform. This particular bill does not go any further than what we took to the people at the last federal election, back in 2013. Indeed, on union workplace access, individual flexibility arrangements and the removal of the ability to strike first and talk later, we are actually delivering on specific policy promises made by the Labor Party prior to the 2007 election but which Labor deliberately broke. So we are delivering on Labor's policies before 2007 and our policies before 2013, which is a fun fact for people at home.

Through our Fair Work Amendment Bill 2014 we are giving effect to a number of commitments in our policy and further restoring balance to the system. We will do this by improving the process for the negotiation of greenfields agreements to ensure that unions can no longer frustrate bargaining for these agreements through unsustainable claims and delays which can threaten investment and delay the commencement of major new projects that are crucial to our prosperity. We are going to restore union workplace access rules reflecting
those in place prior to Labor's unbalanced amendments in dealing with excessive right of entry visits by union officials. We will improve workplace productivity and flexibility by enhancing the scope for employees to make individual flexibility arrangements that meet their genuine needs as determined by those employees. We are closing the strike first, talk later loophole in the good faith bargaining rules which Labor refused to address and will also maintain the value of unclaimed wages recovered for workers by the Commonwealth. The bill also enacts a number of recommendations from the Fair Work Act review panel in its 2012 report, which was commissioned by the now Leader of the Opposition, Mr Shorten.

The Fair Work Amendment Bill 2014 will address the current imbalance in union workplace access rules. Our changes will fairly and sensibly balance the right of employees to be represented in the workplace if they wish to be with the right of employers to go about their business without unnecessary disruption. The government and the coalition see right of entry as a specific statutory privilege to which conditions ought to apply. Regrettably, some union bosses do not see it this way.

In 2007 the Labor Party promised on multiple occasions that there would be no changes to the union right of entry laws. Indeed, in a press conference on 28 August 2007, then Deputy Leader of the Opposition Julia Gillard said:

We will make sure that current right of entry provisions stay. We understand that entering on the premises of an employer needs to happen in an orderly way. We will keep the right of entry provisions.

Like many of Ms Gillard's promises, this promise was not kept, and unions were given much easier access to workplaces under Fair Work Act provisions which were then exploited by union bosses. This has meant many businesses across Australia face excessive workplace visits from unions even when their employees are not union members. And we should remember that only 13 per cent of the private sector workforce are union members. Eighty-seven per cent of the private sector workforce in Australia are not members of any union and actually have no desire to be a member of any union, if you look at the rate of union membership and how it has decreased over the recent decades.

The problem has been exacerbated in some workplaces by unions competing, which is nice that they believe in the market sometimes, to represent employees at the workplace. The problem was actually highlighted by the former government's Fair Work review panel, which noted that the Pluto LNG project received over 200 right of entry visits in only three months. BHP's Worsley alumina plant faced 676 right of entry visits in a single year. Our changes will reduce the capacity of unions to deliberately harass and disrupt businesses in this way.

A recent case featuring the ever-charming CFMEU president Joe McDonald has underlined the urgent need for these reforms. In the recent case where Mr McDonald and the CFMEU were fined $193,600, Mr McDonald ignored specific requests to leave a site owned by Citic Pacific's Sino iron ore project in Western Australia. When asked to leave the site because he did not have a right of entry permit, Mr McDonald replied, 'I haven't had one for seven years and that has not—and he used a really rude word—'stopped me'. Mr McDonald's attitude reflects the very regrettable, dark underbelly of the union movement that should have no place in modern and fair workplaces.

To be clear, these amendments will enact Labor's publicly stated promise prior to the 2007 election, a promise that was not honoured. Given that the Labor Party in opposition, with the strong support of the union movement, supported this 2007 policy platform, we expect that
these amendments will not be contentious. Most union officials will find these changes are not impacting their sensible approach to their right of entry activities. Currently, right of entry for discussion purposes can occur when the relevant union is entitled to represent the industrial interests of the employees at the workplace. This means unions can enter and hold discussions even if they have no actual members at that workplace and no-one has sought their presence.

The bill will amend the provisions so that the ability for unions to enter a workplace is either tied to a union's recognised representative role at the workplace or employees at the workplace have requested the union's presence. A union will only be entitled to enter a workplace for discussion purposes if (1) they are covered by an enterprise agreement or (2) they have been invited by a member or employee they are entitled to represent. If the employee who would like the union to come to their workplace wishes to remain anonymous, a union will be able to apply to the Fair Work Commission for an invitation certificate.

The Fair Work Commission must issue a certificate if it is satisfied that a worker who performs work on the premises and whom the union is entitled to represent has invited the union to the workplace to hold discussions. The certificate will not identify the employee who has made the request. This will restore the balance in the right of entry regime, so that it is similar to prior to the commencement of the Fair Work Act, consistent with the bipartisan consensus at the time of the 2007 election in relation to this issue.

The bill will also provide an effective mechanism for the Fair Work Commission to deal with disputes about excessive right of entry visits for discussion purposes. The previous Labor government's amendments to the Fair Work Act in this area were drafted in a way that renders them largely ineffective and only able to be used in extreme circumstances, where there has been an 'unreasonable diversion of the occupier's critical resources'. These amendments will remove this restriction to ensure the commission has the power to properly deal with excessive right of entry visits—for example, by suspending, revoking or imposing conditions on an entry permit. Additionally, the amendments provide that the Fair Work Commission can take into account the combined impact of visits by all unions to the workplace, reflecting that in some circumstances an employer will be subject to visits by multiple unions.

The bill will also repeal the previous government's amendments made in 2013 that expanded union right of entry rights even further by allowing for uninvited lunch-room invasions and requiring employers to pay for the cost of union-boss joyrides to remote worksites. Those amendments gave unions the right to insist on addressing workers in their lunch room, even when the workers have not requested their presence and are not union members. This is unfair to the 87 per cent of private sector workers, who are not union members and for all workers who just want to eat their lunch in peace without being hassled by union officials. This bill will restore the sensible arrangements that were previously in place, whereby union officials must comply with a reasonable request by the employer to hold discussions in a particular room. Employers will continue to be prevented from nominating locations with the intention of intimidating, discouraging or hindering employees from participating in discussions.

The former Labor government also introduced obligations on employers at remote worksites to provide union officials with transport and accommodation to enable them to access those sites. We will repeal this costly and onerous piece of regulation and, instead,
reinstate the previous approach where unions and employers can reach their own arrangements in those circumstances.

The bill will remove the effective union veto power over greenfields agreements, which have enabled the unions to frustrate the making of these agreements by seeking exorbitant wages and conditions or refusing to agree at all. As the former government's Fair Work review noted, in somewhat understated language, these practices 'potentially threaten future investment in major projects in Australia'. They have already delayed major resources projects worth billions of dollars. This is bad for jobs and bad for the economy. This bill will extend good faith bargaining rules to the negotiation of greenfields agreements to improve standards of bargaining conduct. This will mean that employers and unions will be required to, for example, attend and participate in meetings with each other and consider and respond to proposals in a timely manner.

To ensure that greenfields agreements can be made in a timely manner, the bill will establish a new, optional three-month negotiation time frame. The three-month time frame will apply where appropriate notice is provided by an employer to the relevant union or unions. If agreement cannot be reached in this time frame, the employer will be able to take its proposed agreement to the Fair Work Commission for approval. The agreement will have to satisfy the existing approval requirements under the Fair Work Act, including the better-off-overall test. The agreement will also have to satisfy a new requirement that it provides for pay and conditions that are consistent with the prevailing standards within the relevant industry for equivalent work. Consistent with the existing framework, the Fair Work Commission must also be satisfied that the union or unions to be covered by the agreement are able to represent the majority of future employees.

The amendments to the greenfields provisions will help to unlock new investment and prevent needless delays to new projects. This will provide confidence and certainty to investors and ensure that Australia and Australians benefit from the prosperity generated by these new projects. These amendments will also send a strong message to overseas investors that Australia is open for business and that projects can get underway quickly.

The bill will remove the 'strike first, talk later' loophole under the Fair Work Act, consistent with the promises of the Labor Party prior to the 2007 election and the recommendation of the Fair Work Review Panel. In his speech to the National Press Club in April 2007, the then Labor leader, Mr Kevin Rudd, said:

... industrial disputes are serious. They hurt workers, they hurt businesses, they can hurt families and communities, and they certainly hurt the economy ... They—employees—will not be able to strike unless there has been genuine good faith bargaining.

This is not the case under the Fair Work Act, where employees are allowed to strike before bargaining has even commenced. The bill will amend the Fair Work Act to provide that protected industrial action can only be taken if bargaining for a proposed agreement has commenced. This amendment will mean that industrial action cannot be the first step in the bargaining process, restoring a balanced and harmonious approach to enterprise bargaining. The coalition will fix this loophole. In doing so, Labor's 2007 promise will finally be implemented.
The bill also introduces amendments to provide clarity and certainty for employees in the use of individual flexibility arrangements, or IFAs. IFAs are an important tool introduced by Labor. They are intended to enable workers and their employers to mutually agree on conditions that suit their needs while ensuring that employees are better off overall compared to their underpinning employment instrument. IFAs ought to be an important option to enable employees to, for instance, manage their childcare or other caring arrangements, to spend time with family or for other commitments. They are specific to the individual and not designed as a management tool for a business.

The amendments about IFAs in this bill are based on the Fair Work Review Panel recommendations. They also include further new safeguards to ensure that employees are better off. To be clear, the current IFA framework in the Fair Work Act will stay—with additional protections put in place. This means that an employer cannot force an employee to sign an IFA or make it a condition of employment; the employee must be better off overall than they would have been under the applicable modern award or enterprise agreement; and a worker must provide a statement to the employer saying that the IFA meets their genuine needs and that they are better off overall.

Under the current system, unions can restrict the scope of flexibility terms under enterprise agreements through the bargaining process to only cover a single matter, for instance the taking of leave. This means that workers may be denied the chance to have IFAs on other matters, even if they and their employer want to agree to more suitable arrangements. The amendments will deliver on promises made by Labor in 2007 and provide that IFAs may be made in relation to all of the matters currently prescribed in the model flexibility term to the extent that those matters are covered in the agreement. This will ensure that workers have access to fair flexibility without a veto by union bosses.

The bill also implements the Fair Work Review Panel recommendation that employers should, in limited circumstances, have a legal defence if they enter into an IFA in good faith, believing it meets all the requirements of the legislation, when it turns out later that it does not. The defence will only apply where the employer believed on reasonable grounds that all statutory requirements had been met in relation to the IFA. The bill will also strengthen protections for employees by requiring a statement setting out that the arrangement meets their genuine needs and results in them being better off overall. This will make the position absolutely clear: employees will only make IFAs that provide for non-monetary benefits when the employees themselves make a clear statement in writing why they are better off overall.

Two further amendments recommended by the Fair Work Review Panel will be made to provide clarity and certainty to both employers and employees. First, the unilateral termination period for IFAs made under enterprise agreements will be extended from 28 days to 13 weeks, consistent with the position for awards. In addition, the 13-week unilateral termination period for both modern awards and enterprise agreements will be placed in the legislation. The second amendment will confirm the existing position that the better-off-overall test for IFAs can be satisfied by exchanging monetary benefits for benefits that are not monetary. This is already the case under the legislation introduced by the Labor Party that operated while the Leader of the Opposition was the workplace relations minister. This position has been confirmed by the independent Fair Work Ombudsman. The amendment, combined with the government's new requirement for a statement in writing from the
employee, will provide greater protection and certainty for all parties. All other rules relating to an IFA will be retained, including that they cannot be made a condition of employment, must leave the employee better off overall and must be genuinely agreed to. Anyone who opposes these amendments needs to explain to Australian workers why they should not have the opportunity to be better off overall if the arrangement genuinely meets their own needs—as assessed by themselves.

This bill will also implement a number of other common-sense recommendations that were made by the now Leader of the Opposition's Fair Work Review Panel in 2012 but were not implemented by the previous government. The bill will clarify the interaction between leave and workers compensation by removing an exception that allows employees in a few jurisdictions to accrue or take leave while absent from work receiving workers compensation. This will remove the inconsistency and confusion that currently exist for employees and employers, and ensure that employees on workers compensation across the country are treated consistently.

In line with the fair work review panel's recommendation, the bill will clarify the circumstances where annual leave loading is payable when a person leaves their job. The change will restore the longstanding position that employees are only entitled to annual leave loading when their employment ends if it is expressly provided for in their award or workplace agreement. This will address the confusion that currently exists as a result of the legislation and numerous awards adopting different positions. It will still allow for annual leave loading to be paid, including after employment has ended, if it is in the employee's modern award or enterprise bargaining agreement.

In conclusion, I reiterate that this bill does deliver on key aspects of our election policy and does not go any further. Indeed, the bill actually delivers on key aspects of the promises that the Labor Party took to the election in 2007. I encourage all members, especially those opposite, to consider the consistency of their position in 2007 with the position that they are taking now.

Senator URQUHART (Tasmania—Deputy Opposition Whip in the Senate) (21:30): I rise today to speak on the Fair Work Amendment Bill 2014. Labor opposes this bill in its entirety. It is unfair, it is divisive and it will do nothing to boost workplace productivity or relations between employers and employees. The bill would open the door for basic award conditions, like penalty rates, to be traded away. It would also make it harder for employees to enact their right to representation.

Prime Minister Abbott has consistently promised that Work Choices is dead, but of course—as Australians have learnt the hard way—the Prime Minister and the Liberals cannot be trusted to keep their promises. They cannot be trusted with health, they cannot be trusted with education, they cannot be trusted with our national broadcaster, they cannot be trusted not to bring in new taxes, they cannot be trusted with community services, they cannot be trusted with pensions, they cannot be trusted with the welfare safety net and they most certainly cannot be trusted to protect Australian workers.

If Work Choices is dead and buried, as Prime Minister Tony Abbott has said, we clearly have a case of zombie policy rising up to wreak havoc on the working people of Australia. The truth is that this bill is a blatant continuation of the Liberals' ongoing and consistent agenda of attacking employment conditions and eroding industrial protections in this country.
Though this bill, and on many other fronts, the government is clearly trying to take up where Work Choices left off.

At a time when Australia's wage growth has hit a wall and Australian workers are struggling to ensure that their pay keeps pace with the cost of living, this government is trying to hit them even harder. And yet, despite the indisputable facts, those opposite have dragged out the same mistruths and scare tactics to try to convince the community that Australians need to be paid less. Only last year, Senator Abetz was talking about wage explosions that, if left unchecked, would push thousands of Australians out of work. This is an absolutely outrageous claim that has no basis in reality, as Mr Abetz would undoubtedly be aware. The hubris of a man who can tell the Australian people a fib in his attempt to lower their take-home pay and their standard of living is shameful. That he would try to convince the Australian people that this is actually in their best interests is truly breathtaking.

Back in the real world, economists—and anyone with more than a passing understanding of current economic matters—know that wages growth is the lowest that it has ever been. The Australian Bureau of Statistics told us in December that, at 2.6 per cent, annual wage growth had barely outperformed inflation in the year to 2014. But remember that this is an average, and in many industries employees are finding that their salary no longer pays for the same things it did just a year ago. A recent Business Day survey found that many experts and economists do not expect things to get much better in 2015. CBA economist Michael Workman expects inflation of 2.7 per cent, with wage growth of just 2.2 per cent; Professor Jakob Madsen of Monash University expects inflation of 2.5 per cent and wage growth of 2.2 per cent; and Saul Eslake from Bank of America Merrill Lynch, Shane Oliver from AMP and Tom Skladzien of the Australian Manufacturing Workers Union expect zero real wage growth.

Despite this, the Abbott government persists in launching another attack on the conditions of Australian workers. Despite stalled wages and the increasing difficulty that working Australians are having making ends meet, this government wants to put more power in the hands of employers. Clearly this government is in a race to the bottom on standards in industrial relations. Rather than trying to build a balanced and stable industrial relations system, this government has launched yet another attack on workers. The provisions in this bill are fundamentally unfair—a feature which is almost becoming a hallmark of legislation developed by the Abbott government. This is a government that consistently and continuously hits out at those who have the least, while handing out favours to those who have the most. It has back-flipped on its promise to install laws to address tax avoidance measures employed by multinational companies and at the same time it is commissioning an industrial relations review which will include penalty rates and the minimum wage.

This government consistently and repeatedly hits those who are least able to take the blow, those who are least able to speak out on their own behalf and those who already have the toughest lots in Australian life. Those with wealth are spared the burden of budget cuts. Those with social and political power are privileged in legislation. The reality is that the people who are likely to be impacted the most by these changes have the least capacity to argue their case and the smallest amount of leverage to achieve outcomes. Women, particularly, will be worse off, as they are more likely to be on a minimum wage than men. There are more women in industries like hospitality, community work, child care and cleaning which will be exposed to
the provisions in this bill. Similarly, low-paid workers, workers with limited access to formal education and other vulnerable Australians would be left unrepresented or at the mercy of unscrupulous employers.

The government has told us that this bill is merely the delivery of an election promise to implement the recommendations of Labor's 2012 Fair Work Act review, but the truth is that the bill before us today goes much, much further. In fact, the provisions of this bill serve to undermine fundamental work and representation rights that are integral to Australia's industrial relations system. The government has misled the Australian people by trying to represent the antiworker provisions as being just the fulfilment of the expert panel's recommendations. This simply is not true. This bill clearly oversteps any mandate the government try to pretend they have. And Australian workers will be the ones to pay the price.

One of the biggest concerns is the government's plans for individual flexibility arrangements, or IFAs. It was Labor that introduced IFAs, in 2009. They were designed to create a framework that would allow for genuine flexibility—the flexibility for parents to make arrangements with their employer that would allow them to pick up their children from school or take time to care for ageing parents, for example. But Labor's individual flexibility agreements came with strong safeguards to protect workers. Firstly, there was a requirement for genuine agreement between workers and their employers on the terms of the agreement. Secondly, and very importantly, the agreement needed to satisfy the 'better-off overall' test. That is to say, the employee must be better-off overall as a result of the provisions contained in the agreement. This is an important safeguard that protects conditions from being traded away by unscrupulous employers. But the legislation before us today will weaken the 'better-off overall' test. In doing so, it abandons the safeguards when it comes to what can be traded away under an individual flexibility agreement.

This bill also includes provisions to allow non-monetary payments to be taken into account when considering whether an employee actually is better-off. Remember, the government are making these changes on the basis that they are merely fulfilling the recommendations of the expert panel. But the expert panel was very explicit on the matter of non-monetary payments, saying that, if a non-monetary benefit is being traded for a monetary benefit, the value of the monetary benefit forgone must be relatively insignificant and the value of the non-money benefit is proportionate. They are three simple words—relatively, insignificant and proportionate—but three simple words with big implications for workers' employment conditions when they are removed.

Equally, we could see employees left with little choice but to forgo their rights to penalty rates for working antisocial hours or they may be forced to drastically alter their working hours. Clearly, this distorts the original intention of these individual flexibility agreements beyond recognition. And clearly it means that Senator Abetz was wrong when he said of the bill that it:

… implements our publically stated policy – nothing more, nothing less.

It is here that we start to see the government's real intent. It is not about fulfilling the will of the expert panel. It is not about the government keeping their word to Australian voters—because, goodness knows, they have paid no heed to that in so many other areas. What it is about is removing protections from Australian workers. Government members have said that
these changes are needed to bring flexibility to the system. Unfortunately for the government, and for the strength of their argument, it seems business does not agree. In fact, less than one per cent of employers believe that IFAs are too inflexible, according to a survey undertaken by Fair Work Australia in 2011. So not only are the government attacking Australian workers, but they are doing it to address a problem that does not even exist. It is clear from this that the government are not trying to make for a better workplace system but rather are fabricating problems in order to fulfil their fundamental agenda of attacking workers.

But this bill goes further, by requiring employees to sign a 'genuine needs statement' agreeing that they will be better-off as a result of the agreement. While this sounds like a reassuring measure, in practice it will offer employers a ready-made defence against any future claims that they may have contravened a flexibility term in the agreement. In practice, it would be a very brave employee who would refuse to sign these agreements if they had any fears that their job might be the casualty of their refusal. This is particularly relevant in industries or areas with high unemployment or in entry level positions where employees have much less bargaining power. As Associate Professor Rae Cooper at the University of Sydney's Business School put it very well, in The Age recently:

Frankly, how will a mother seeking flexibility to fit with care arrangements and who is desperate for her job manage to genuinely negotiate on an individual basis?

So, far from being an employee protection, it is clear this provision could offer an alibi to unscrupulous employers who wish to take advantage of unsuspecting employees.

Another big problem with this bill is that it attempts to diminish the ways that unions can communicate with their members, through changes to the right-of-entry provisions. We on this side of the chamber believe it is the right of all employees to decide whether they join a union or not. We also believe in balance—that right-of-entry provisions should not be tilted towards either unions or employers. However, this government has dispensed with any notions of balance in this bill. Of course, it will come as no surprise that the Abbott government's changes in this area are heavily weighted to employers. And, again, we can see that what the government promised to do is very different to what they are actually doing. Before the election, the coalition said they would adopt recommendation 35 of the expert panel, which gives greater power to Fair Work Australia to resolve workplace disputes about the frequency of visits. However, the government's inclusion of a provision that requires the Fair Work Commission to consider the 'combined impact on the employer's operations' is clearly intended to exclude all unions from a site if only one union has been found to have entered too frequently. This bill would make it harder, or even impossible, for workers to have discussions with their union representatives in their own time at work. It will also enable employers to nominate unreasonable places for workers to meet their union representatives. This is a case of 'punish one, punish all.' This bill proposed go far beyond the expert panel's recommendations and is clearly intended to exclude unions and restrict people's capacity to act on their right to union representation. Clearly, the government is trying to restrict access for unions to worksites.

Another very concerning aspect of this bill is the amendments to greenfield agreements. These provisions pave the way for certain groups of employers in industries such as mining and construction to essentially negotiate with themselves. The amendments allow for the ludicrous situation where one party—unions—would simply be removed from the negotiating
table if difficulties arise in the course of negotiations. Employers are given absolute advantage in negotiating by allowing them to choose which unions they want to negotiate with. After the negotiations begin, the employer can then at any time call a notified negotiation period. They then simply have to sit back and wait. Once it starts, this countdown clock does not stop. An employer could essentially walk away from the negotiating table and wait for the three months of negotiations to expire.

If they cannot reach agreement with the union within three months, they are then entitled to write their own workplace agreement with or without the support of the unions and their employees. At the end of the three months, the employer—and only the employer—could take a proposed agreement to the Fair Work Commission for assessment and approval. Essentially, the employer will negotiate with themselves and unsurprisingly they will find that they are in furious agreement with themselves. This is absurdity of the highest order and would not be out of place in a Monty Python sketch. It is no way to bring fairness into Australia’s industrial relation system. This provision will allow employers to trample all over their workers’ rights with absolutely no checks and balances to limit the excesses of some greedy employers. This is just another reason that Labor opposes this bill.

The government has said this bill is necessary, but the truth is that Australia has one of the strongest, fairest and most successful industrial relations systems in the world thanks to the reforms of the previous Labor government. When it was introduced, we were told that the Fair Work Act would undermine productivity, cause untold industrial disputes and pummel productivity outcomes. We were told by the Business Council in The Australian that the Fair Work Act had:

… unleashed an adversarial culture which has resulted in a rising number of disputes and unreasonable claims.

So let us look at the outcomes. What has actually happened under the Fair Work Act? Let us look at industrial disputes. Those opposite told us these would spiral because unions would be interfering with areas that were none of their business. The facts tell a very different story. According to the Australian Bureau of Statistics, 2013 was the second lowest year for industrial disputes since records began. So much for claims it would lead to industrial chaos. Compared to the Howard era, industrial disputes are at a remarkably low level. Why? Because Labor created a system that was fair to both parties. Clearly, this is part of the government’s ongoing agenda to attack unions and drive down wages.

Earlier this month in this place, I shared a quote from Bernard Keane that I think is particularly relevant here again today. Mr Keane has captured the motivations of government members perfectly when he said:

The Fair Work Act has delivered significant labour productivity growth and moderate — at the moment, low — wage growth, with industrial disputation far below the average level of the Howard years, suggesting it’s not real-world outcomes that the Coalition is concerned about in IR, but business bottom lines.

Indeed.

But really, we should not be surprised. It is in their DNA. Those opposite have a long history of relentlessly attacking the rights of Australian workers and attempting to shackle the unions that represent them. In 2004, they did not tell the Australian people their plans to introduce WorkChoices and AWAs. In 2005, they told the Australian people their pay and
conditions were protected by law when they were not. In 2008, Mr Tony Abbott said WorkChoices:

... was good for wages, it was good for jobs, and it was good for workers. And let's never forget that.

Things have not got much better with this appalling government.

This government's highly ideological commission of audit recommended that the minimum wage go backwards by one per cent a year in real terms for a decade, which is a move that would entrench poverty and take the minimum wage back to its 1998 level. This government promised not to touch penalty rates and then gave the Productivity Commission open slather to look at this and many other aspects of industrial relations which we were told were off the table. This government extended a royal commission into the trade union movement for a year without the royal commissioner asking for it.

This government never was, and never will be, a friend of the workers. From the moment they gained power, they have set out on a systematic path to lower the conditions of Australian workers. I urge senators to fight back against this vindictive agenda and back millions of Australian workers by voting against this rhetoric bill, this backward bill, this bill that will not enhance workers in any shape or form. It will not add to productivity in this country.

Senator McKenzie: That is not true, Senator Urquhart.

Senator URQUHART: It is true, Senator McKenzie. There is no evidence to suggest that this bill or attacking workers will actually add to productivity improvements in a workplace. Having represented workers for over 30 years of my life, I can stand here today and say that workers with low-paid incomes are some of the most vulnerable people in our country. As a Labor representative, I am very proud to stand here alongside the rest of my colleagues and support workers. We should all vote against this legislation.

Debate interrupted.

ADJOURNMENT

The ACTING DEPUTY PRESIDENT (Senator Peris) (21:50): Order! I propose the question:

That the Senate do now adjourn.

Workplace Relations

Senator LINES (Western Australia) (21:51): I want to continue on with a speech that I started last week looking at the Abbott government's desire to get rid of penalty rates. Last week, I drew links between the North Sydney Forum, John Hart from the association Restaurant and Catering Australia and Mr Joe Hockey. As we know, Mr Hockey wrote the terms of reference of the Productivity Commission's inquiry. This week, I want to continue my remarks around penalty rates, but really look at penalty rates from a workers' perspective.

Certainly, the government is determined to cut penalty rates. Do not believe the weak assurances that they may give; we just need to look at their actions. If the Abbott government is really not interested in cutting and taking away penalty rates, it would have specifically quarantined them from the Productivity Commission review, which it has not. The Productivity Commission has free range to examine all aspects of work. In fact, the entire workplace relations framework is under the Productivity Commission's spotlight.
The Abbott government has demonstrated time and time again it does not understand penalty rates. If it did, it would not be on the destructive path to reduce the take-home pay of around 4.5 million working Australians. Millions of Australians rely on their penalty rates to make ends meet, to pay the bills, to educate and care for their children and to look after their families. Most of us rely on penalty rate workers to deliver out-of-hours and weekend services. But the Abbott government, as demonstrated by its actions, simply does not understand this. The Prime Minister went even further when he said to penalty rate workers:

If you don't want to work on a weekend, fair enough, don't…

What a ridiculous statement to make. It shows, once again, how out of touch the Prime Minister and his government are.

There are very, very few areas of our community that do not rely on services provided out of hours or on the weekend. I want to give voice to these workers and the services they provide. I have taken these comments from the United Voice submission to the Productivity Commission inquiry into the workplace relations framework. It is a publicly available document, and it is about time the government took a long hard look at it and made their view clear on penalty rates. I would like the start by quoting from Ericka, a nurse from Western Australia:

I am the sole breadwinner in this household. I'm a nurse. The work I do is hard work, it's caring for others, it's being there at odd times, when others have knocked off, it's missing out on friends and family. There's no work-life balance anymore. The penalty rates help keep our heads above water. Knowing I have job security is one of the things I truly value. And I'm not alone in this. There are so many others like me, we don't (can't) go backwards after working so hard for what we've earned. Please don't make things any harder.

I would now like to put the voice of Naomi, a casino worker from New South Wales, on the record:

With three children, working weekends is my only option for our household to survive. To be working in an industry that operates 24/7 with weekends being the busiest, I have sacrificed on children's birthdays, family functions and sports just to make ends meet. Penalty rates have helped tremendously. Take penalty rates away means more time away from my children and daycare that we simply cannot afford :(

Margaret-Ann, an aged-care worker from Western Australia, says:

We get a poor wage for the work our job in the aged care sector entails.

I will add, before we hear more from Margaret-Ann, that Margaret-Ann probably earns between $19 and $21 an hour without her penalty rates. And I suspect she works part-time—around 30 hours per week. Margaret-Ann goes on to say:

Working public holidays and late nights are part and parcel of what we do and we have no option but to work these shifts and days. So please give us appropriate remuneration for this. What we do … it's more than a job! Please allow us a living wage, one with job security and the means to pay our bills.

I will just refer back to the Prime Minister's words when he said to workers like Margaret-Ann, 'Fair enough; if you don't want to work weekends then don't.' If Margaret-Ann stops working weekends, who cares for the aged Australians that she looks after on the weekends and on night shift? How does the Prime Minister even contemplate that that work would be done if the Margaret-Ann's of the world did not give up their home time and do that valuable work?
Lindy, a hospital services worker from Western Australia, says:
We don't choose to work odd hours—we HAVE to! Unfortunately, sick people don't go home at 5.30 every night.
Again, Lindy's words just show how out of touch the Prime Minister is. Does he seriously think hospitals close at 5.30? Or does he think they staff themselves? Who looks after the sick in our emergency hospitals if it is not people like Lindy?

Kirsteen, a hospitality worker from Victoria, asks:
Do you realise what it is like not to be there for your family and friends when they need you? Do you get to enjoy your Christmas Day? Easter? Do you know what it is like to struggle financially? Without my penalty rates, I don't think that I would be able to pay my bills, let alone little luxuries.

Lara, a partner of a penalty rate worker, says:
I spent Christmas Eve alone and on Christmas morning my children sat waiting for their dad to come home from work before opening their presents. People like my husband who work in our emergency services give up a great deal to do their job. Cutting their pay through removing penalty rates is no way to thank them for the job they do.

Rhonda, from Victoria, asks the Prime Minister:
Could you live on $45 a day after tax? It doesn't pay the bills or even put enough food on the table. So a Sunday shift penalty rate is a means of survival occasionally.

Colin, from security services in the ACT, says:
It's hard enough to live with penalty rates, without them it would be impossible.

Jackie, another hospital services worker from Western Australia, says:
The loss of penalty rates would be a major blow to me. I am a 60 year old widow. What I earn is what I have to live on. I work in the country. There is no public transport so I have to drive 60km each day I work. Penalty rates help to offset the fuel costs.

Where is the National Party on this? What is their view on penalty rates? Are they standing with the Prime Minister and Minister Abetz in calling for penalty rates to be abolished? If they are not, it is time to sever those links and to stand up for workers like Jackie who drive 60 kilometres a day to work in a hospital. Her penalty rates are precious to her. She is a single earner, and those penalty rates go toward putting the fuel in the petrol tank that she needs to get to work.

Make no mistake: this is a deliberate attempt by the Abbott government to attack penalty rates for working Australians. And they are not even being honest about it. They are doing it under the guise of the Productivity Commission. No doubt the Productivity Commission, with the terms of reference written by the Treasurer, Mr Hockey, for his mates in the hospitality industry, will come out and say that there needs to be some curtailing of penalty rates. I have no doubt that will be the outcome. The Abbott government will be standing there saying, 'Oh, not us, not us—the independent Productivity Commission has suggested this, so we want to go ahead and do this.' The Abbott government will be cutting 4.5 million working Australians, low-paid Australians.

We have already seen what a harsh, cruel government the Abbott government is. Whether the Abbott government wants to be up-front in its attack on penalty rates or whether it wants to hide behind the Productivity Commission, penalty rates are well and truly under the spotlight of this harsh, cruel government. Thankfully 4.5 million Australians work and they
vote, and they know very clearly who supports their penalty rates and who does not. So let's see what the Productivity Commission recommends and what the Abbott government does when finally it will be exposed for its true agenda of reducing penalty rates for 4.5 million working Australians.

**Tasmania: Gunns Ltd**

Senator WHISH-WILSON (Tasmania) (22:00): I rise to talk this evening on the recent release of an extraordinary book, the first of its kind, a book that needs to be read and debated by every Tasmanian, indeed, Australian, who cares for democracy and the future of this country's wild places. This book is *The Rise and Fall of Gunns Ltd* by Professor Quentin Beresford. The story of the rapid rise and the shocking corporate collapse of Gunns Ltd, a $2 billion timber company, and all that this entailed and revealed is one of Tasmania's most notorious sagas, which has had significant national ramifications. But this book is about much more than that.

If you want to understand Tasmanian politics, read this book. If you want to understand why people such as me and Senator Milne joined the Greens and pursued a path into politics, look no further than this book. The epic struggle outlined in the pages for a healthy, democratic, clean and green Tasmania is my story and it is the story of thousands of other Tasmanians and Australians.

Quentin Beresford is a professor of politics at Edith Cowan University, where he has taught for more than 20 years. He is also an award-winning author of numerous books on Australian politics and public policy, including *The Godfather: The Life of Brian Burke*. His specialty has been researching institutional corruption or cronyism—the impact on democracy of the close and cosy relationships between businesspeople and governments or politicians. Professor Beresford's observation that Gunns Ltd was embedded in a power system that guaranteed unquestioning support from the two major parties, combined with the twist of a powerful, pushy and persuasive Gunns CEO, John Gay, has led to Tasmania's own tale of cronyism—indeed, crony capitalism par excellence.

Quentin was born and educated in my home state of Tasmania and was previously a journalist at *The Mercury*, where he wrote extensively on Tasmanian political and environmental issues. Professor Beresford's book's exploration of the defining theme of anti-environmentalism in Tasmania's political history is striking. He left Tasmania himself to live in Perth partly to seek new opportunities and partly because, to him, Tasmania 'felt claustrophobic—captured by a clique of conservatives bent on a take-no-prisoners confrontation over the future of the state'. Strong words indeed, but, for those with eyes wide open in Tasmania today, still very apt.

Tonight I want to personally thank Quentin Beresford for writing this book—the first attempt ever to tie together a narrative around the historical backdrop, political perspective and all the other myriad threads surrounding Tasmania's biggest corruption of democracy and subsequent corporate collapse. And, to use the words of Geoffrey Cousins, it is indeed 'a tale that needed telling'. I know it took a year of sabbatical to finish the book, after at least five years in preparation. I know that the pile of information given to Quentin was extraordinary and that much material did not make it into the book—for many different reasons, including the threat of litigation. I know that much of this information, which relates to personal corruption, is the reason Quentin Beresford so strongly advocated in the conclusion of his
book for a royal commission into the collapse of Gunns. I also know that Quentin Beresford extensively interviewed numerous Tasmanians and that he immersed himself in many communities—including mine, in the Tamar Valley—to be able to better understand the political conflicts that undermine and divide Tasmanians.

It is by far the best synthesis of what is wrong with my state of Tasmania and of what is necessary to change this, for Tasmania to advance. As Quentin himself said at the book's conclusion: 'I knew at the outset that it would be impossible to defend the way things had been, rather it was important to explain why it was so.' It is a simple, compelling read that will, I am confident, challenge and change every sensible reader who takes the time to pick up the book and take it in its pages.

It has been met by a predictable wall of silence from the Tasmanian establishment, the mainstream media in Tasmania and the two old political parties. That is a shame, considering those not willing to learn from the mistakes of the past are bound to repeat them. In fact, this seems to be the book's overarching message—that history in Tasmania keeps repeating, and no-one learns or is the wiser for this.

Professor Beresford also warns that in many ways the rise and fall of Gunns Ltd is a modern warning about governments and political parties generally developing overly close relationships with big business. Yet much of modern politics is built around such a model of government, both in Australia and overseas. I have spoken at length on this exact issue numerous times since I have been in the Senate.

Professor Beresford outlines in this book several important things: why the rise and fall of Gunns is a truly disturbing case study of cronyism, the corporate abuse of power, and why this is worthy of a broad audience; why Tasmania is especially prone to this corporate 'crony capitalism' model of government and how we need to fix this, by starting with a royal commission into the collapse of Gunns then building political institutions and community action to cover what he labels the 'political deficit gap' in the Tasmanian polity; why Tasmania's decades-long adherence to the pro state-development model became a crippling drain on its economic development, which has cost the taxpayer billions; why the collapse of Gunns has bought into sharp focus the economic and political costs of this cronynism model; and why other institutions operating the same failed business model, such as Hydro Tasmania and Forestry Tasmania, have been driven into massive debt-induced restructuring.

Professor Beresford also highlights that no state or federal Labor or Liberal politician has ever attempted to explain, let alone atone for, these losses. Professor Beresford concludes his book by stating:

Now with the collapse of Gunns and the diminished power of Forestry Tasmania, the state stands at the cross roads. But its future direction depends on what lessons the public, politicians and business leaders draw from this conflict driven past.

Beresford himself admits that 'the alternative to genuine reform is a grim prospect', with new rounds of what he labels as 'politically inspired environmental conflict' already taking Tasmania back to the 'cronyism' and the mistakes of the past. This is reflected in the current proposed logging of controversial coupes, such as Lapoinya—Mr President, in your North-west of Tasmania—or the secret, divisive and controversial drive to attack wilderness and World Heritage values under the smokescreen of new tourism development.
He also highlights 'further resort to draconian curbs on civil liberties' as another deliberate attempt to divide the state—such as the multitude of bills before Tasmanian parliament to silence protest or impede free speech—and, lastly, the current perpetuations of 'failed economic strategies'—such as propping up Forestry Tasmania with Hydro's millions in windfalls from the price on carbon and the losing of hundreds of thousands of taxpayer dollars by insisting on logging unprofitable coupes, such Lapoinya in the north-west.

These developments and the recent leaked information released by the Greens on serious potential environmental problems around fish farming in Macquarie Harbour—including industry accusations that the government is not providing the necessary checks and balances to growing corporate power in the salmon industry—does not auger well for a 'new Tasmania'. But the Greens and many other Tasmanians will remember the tale of the rise and fall of Gunns, will learn from the mistakes of the past and make sure future generations of Tasmanians will prosper from this sorry saga.

I will conclude with the final word on this excellent and important book from my own father, Tony Whish-Wilson—words he used to help persuade Quentin to write the book many years ago:

This book needed to be written so that future generations of Tasmanians would understand what had gone on.

**Sexism Report**

**Senator MOORE** (Queensland) (22:09): Last week the Australia Institute released a paper entitled, *Everyday sexism: Australian women's experiences of street harassment*. This particular survey was conducted last November and looked at the issues of harassment against women in public places. The survey explored the experiences of women, their feelings of safety on the streets and any changes in behaviour they experienced through their fear or concern about the sexism. The data was extremely confronting. The survey showed that 87 per cent of Australian women have experienced at least one form of verbal or physical street harassment. Among those who had experienced street harassment, 56 per cent were alone when they experienced the attack, and three in four women, or 74 per cent, were harassed by a man or a group of men. The majority of the women were under 18 when they first experienced this sort of harassment and, disturbingly, 40 per cent of Australian women involved in this survey did not feel safe when walking alone at night in the vicinity of their home— their familiar place. They did not feel safe walking to their own homes. Some 87 per cent of women have taken at least one action to ensure their own personal safety in the last 12 months—talking to friends and looking at ways for them to feel safer.

It is extraordinarily confronting to hear the real experiences of women—not just through the survey, but through an accompanying paper, which is the Everyday Sexism project. This is a website that catalogues instances of sexism experienced by women in Australia on a daily basis. Women contact the website and report what has happened to them. These first-person street harassment experiences from the Everyday Sexism project were used in the paper that was published last week, along with the stats of the survey, to give a snapshot of a really disturbing element in our society. The paper was written in the context of an ongoing discussion about the increasing violence and attitudes to violence against women in our society.
We know that, since 1995, the National Community Attitudes towards Violence against Women survey has been tracking changes in attitudes to violence against women. There are three key survey dates—1995, 2009 and 2013. Over that time, concern over women's safety in the community has declined, and the most recent survey found that, since 1995, there has been a decrease in the number of people who agree that violence is perpetrated mainly by men. Between 2009 and 2013 there was a decrease in those who recognised that women are more likely than men to suffer physical harm and fear as a result of the violence. Between 2009 and 2013 fewer people agreed that violence against women was common. In that kind of environment, it is important to look at what is happening now and what women are saying is occurring to them and how that is forcing them to feel fear and to make changes in their own lives.

I was particularly concerned by some of the experiences reported by the Everyday Sexism project. When you match that with other responses from the survey, such as 87 per cent of Australian women have experienced a form of verbal or physical street harassment, and when you hear what women say what concerns them, it is disturbing. One of the contributions is from a woman who was walking home at night on a relatively busy street when a couple of young men in a passing car yelled: 'I am going to rape you.' She continued: 'They didn't come back and I made it home safely, but I was alone and it frightened me.' That kind of experience is not a one-off. The fear, concern and sometimes real anger that it causes can affect a woman's wellbeing, sleep and has an impact on her self-worth. It is simply not appropriate—it never has been, it is not now and it will not be in the future.

It is not just women of a particular age who are targeted. One woman left work to get her lunch. She was crossing the road when a man in a bright yellow car decided to yell out particularly rude comments to her, a 40-year old mother in broad daylight. She was wearing her work clothes. He was driving, so she did not think he was drunk; not that that would have been an excuse, but you would think that someone who would feel that they needed to do that in the middle of the day would at least have some excuse for their behaviour. Also, and most disturbingly, it is not just verbal comments: it became clear in the survey that so many women have experienced lewd comments, whistles, and inappropriate comments. But there is actually a more violent process that was exposed during this survey. One of the particular concerns was the feeling of being stalked or followed, or of having your way blocked, when you are feeling alone and vulnerable.

Another story from the Everyday Sexism Project was that of a young woman who was on the train with some friends, when she noticed that there was a man behind her just staring at her. 'I did not know what to do; I ignored it because I thought it would go away,' but then this man followed her from the train and followed her down a road towards her home. Again, Mr President, this is something that causes fear and alarm, and makes you feel unsafe. In this environment, it is important that women have an opportunity to talk about their experiences and to share them, and it is important to ensure that the messages that they are giving are listened to effectively—and that there is a sense that we as a community know that this is wrong. It is not a joke. It is not something that should just be shrugged off.

As I am getting older, I am becoming more offended by people telling me I should actually have a sense of humour about these things. I do not think it is funny. I really do not think it is funny that women are feeling unsafe, and I do not think that we as a community should be
expected to think that this is something we should accept, or that we should support. When you read the survey, it is important to understand that there can be a response, and that we have an opportunity to actually give support. A very concerning thing that came out in the survey was that so many of the people who shared their stories—by contacting the website or by sharing through the survey—were very young and still at school. And they were already experiencing this fear and these attacks. There can be a number of responses to this. Some people can make the statement that they are not going to put up with it; that they know it is inappropriate; and that they will be able to move forward and ensure that they say 'no'—and make this statement clearly in their community. Or, very worryingly, we have cases of people who are traumatised by the experience: they do not feel safe; they change their social habits; and they do not feel they are able to be themselves in public—and then they begin questioning their own worth and, seemingly, whether in fact it was something about them that attracted this attention or caused the hurt.

It is important that we acknowledge surveys like this one by The Australia Institute, and that we learn from them. It is important that we have the reinforcement mechanisms in our community and in our schools to say that this is not appropriate. And this is not just for women; it is for men as well. Behaviours can be learnt and behaviours can be unlearnt. We need to independently survey the attitudes, and independently survey the information, and then have the strength to say no—and not be diverted by people just saying, 'oh, you should not worry about that; it is just a bit of fun'. Mr President, it is not a bit of fun. People have every right to feel safe. They should feel safe. I believe that, as we continue to have these discussions about this issue—and when we look at the next National Community Attitudes towards Violence Against Women Survey—we should be able to question these results, and to say that violence is wrong. There should be an acknowledgement of this, and we should not accept that violence against women is common.

New South Wales State Election

Senator RHIANNON (New South Wales) (22:19): The New South Wales Liberal and National parties are hell-bent on selling off our collective wealth. While Premier Michael Baird might put a smiley face on the harsh coalition policies, he is not dissimilar from his friend and neighbour, Prime Minister Tony Abbott. Privatisation is a key election platform for the NSW Liberal and National parties. Support for big business, particularly by opening up the sale of public services and assets, is the foundation of the New South Wales coalition government.

The Liberal-National approach is evident in the rundown of the New South Wales TAFE sector. Our TAFE system has been world-class, and unique as a place of public education. It has offered a place for second-chance learners, or for those who simply did not fit in to the university model. The New South Wales TAFE system offered a means for so many to re-engage in education. Without TAFE, many of these students would have fallen through the cracks. After ongoing funding cuts, and opening vocational education and training to private businesses, the New South Wales TAFE sector is on the brink of collapse: 1,200 staff have lost their jobs, and fees for students have gone through the roof, making TAFE unaffordable for so many. To make it worse, the Baird government's introduction of a contestable model for VET funding—a process actually initiated by the Gillard Labor government—will privatise more than $600 million worth of TAFE funds, dumping TAFE into competition with
low-cost, lower-quality, training companies that operate for a profit. Locking people out of the public TAFE system—due to high fees, closed campuses, and poor training and education quality—is a failed coalition education policy. Locking people out of TAFE too often means locking them into unemployment. This is a result of Baird government policies.

In New South Wales, the public transport system is another coalition failure. The government's own analysis has shown that the major corridors in Sydney's rail system will be overloaded within five years. In Newcastle, the Baird government has shown a shocking level of arrogance—the rail line has been cut. It is clear that the New South Wales government has little concern for those who depend on the train to get in and out of what is an already congested town centre. This scrapped Newcastle rail plan is another example of the Baird government looking after their developer mates. Railway land will be sold off, and it is along the beautiful Hunter River—an area that will clearly command huge prices for those developers when they choose to sell the land on.

There are no public plans for light rail, let alone a company engaged to construct it, despite the promises. There is no time frame at all. Given that rail services into the city have already stopped, it is becoming increasingly evident that the Baird government has no intention to replace the services with light rail. I have not met anyone in the Hunter who expects the light rail to be built. Those who rely on the rail service to get to university must now drive. Those who take the train from Newcastle to Sydney are more likely to drive. Those who take the train from Maitland and other rural areas of the Hunter who take the train to the beaches—jumping on the train with their surfboards—are now more likely to stay at home, and their towns are likely to bear the brunt of their idleness, wherever that might take them. The cutting of the Newcastle rail line has nothing to do with the revitalisation of the city centre. It is about appeasing the developers, who have been after the land on which the rail line stands for decades.

There is a remarkably similar problem in Western Sydney. There the New South Wales government is racing to construct the $15 billion WestConnex motorway, which is set to become the most expensive toll road in New South Wales. The Baird government has refused to release the economic modelling for the project and has not conducted an environmental impact statement yet. However, it is already acquiring the homes, businesses and parkland to make way for the new tollway. The Greens MP in New South Wales, Mehreen Faruqi, has done economic modelling which was published in The Australian Financial Review. This shows that the WestConnex toll will come in at least at $26—almost triple the cap promised by the New South Wales government—if it is to break even. If the government actually keeps its word and tolls are capped at $7.35, or $9.60 by 2023 when it is due to be completed, the project will cost the people of New South Wales more than half a billion dollars each year. This is money that should be spent on hospitals and schools or on the more sustainable option of public transport. You would have to say: 'So much for sound economic government from the Baird coalition people.'

There are alternatives. The people of Western Sydney have been asking for a light rail system for years. Stage 1 of the proposed Parramatta light rail project would cost 10 per cent of the total amount of money being spent on WestConnex. The funds could complete this project, buy back the Sydney airport line and improve infrastructure and facilities for
Sydney's rail system. Importantly, these projects are likely to meet the transport needs of thousands more people living in Sydney than WestConnex ever will.

The people of Sydney are suffering because the Baird government is holding on to the failed model of urban transport motorways. The way to reduce congestion is by funding public transport. People will use public transport when it is reliable, safe and inexpensive, and this is the way to free up congestion on our roads. But the Baird government is set on delivering for the motorway builders, like it is for the developers who reap millions of dollars out of the tollways that now ring Sydney. The New South Wales government is locked into privately owned transport, with barely any assistance for those who cannot afford to drive or who are looking for non-car travel options.

As the Baird government continues to invest in massive, expensive infrastructure and sells off our collective wealth, it deliberately and knowingly shifts resources and money away from the people in need. In June there were 59,000 households in New South Wales waiting for social housing, a 3.6 per cent jump on last year. Even those who may be lucky enough to be in social housing under the Baird government increasingly live with great uncertainty. Residents who live in Millers Point right in the heart of Sydney are being kicked out because the property values there offer the government a quick revenue raiser. The heart of social housing is to provide people on lower incomes with a sense of stability, a home and a place to develop as a community. Over time this has been the case in Millers Point, where many tenants come from families who have lived for generations in this area. Millers Point is a place where you can hear stories of the history of Sydney, where people have known each other for decades. It is a very strong community. Yet this will be broken apart all for the sake of the short-term profit that the Baird government is driving.

The message this sends to those in social housing is: 'Yes, you will have a home—until the property value rises and the government can make some quick money out of your home. It does not matter if you have lived there all your life; it does not matter if you watched your children grow up there. There is no stability.' The government uses the excuse that they cannot afford the maintenance of the properties at Millers Point. This sends a very clear message about who the Baird government is governing for, and it is not those in need.

How many communities have borne the brunt of decisions from corrupt politicians is a question that still resonates in New South Wales. Thanks to the New South Wales corruption watchdog, ICAC, we have seen a willingness from elected representatives—one premier, two ministers, eight members of the New South Wales parliament—to utterly disregard the laws that they are elected to maintain.

What never ceases to impress me, however, is people's resilience in the face of these problems. The strength of community when governments become entwined with business and industry is an inspiration. How they stand up to people who work in this way reminds me well of the reason why I am here, why I am part of the Greens. Together there are so many people who are working for a society where community—not business, not industry, not elite people in government—is the priority, where we work together to seek sustainable solutions to our problems. Those people are working together in a most fine way to counter the very damaging problems that the Baird government is putting on the people and the environment of New South Wales.

Senate adjourned at 22:29
DOCUMENTS

Tabling

The following documents were tabled by the Clerk pursuant to statute:

[Legislative instruments are identified by a Federal Register of Legislative Instruments (FRLI) number. An explanatory statement is tabled with an instrument unless otherwise indicated by an asterisk.]


Agricultural and Veterinary Chemicals Code Act 1994—
Agricultural and Veterinary Chemicals Code Instrument No. 4 (MRL Standard) Amendment Instrument 2015 (No. 2) [F2015L000275].

Veterinary Chemical Products (Excluded Stockfood Non-active Constituents) Repeal Order 2015 [F2015L000279].


Civil Aviation Act 1988—
Civil Aviation Regulations 1988—
Authorisation amendment—pilot maintenance on class B rotorcraft—CASA 20/15 [F2015L000276].

Permission and direction—helicopter operations by Northshore Holdings (NT) Pty Limited, trading as Remote Helicopters Australia—CASA 293/14 [F2015L00024]—Revised explanatory statement.

Permission and direction—helicopter operations by Wellspring Rural Services Pty Ltd, trading as Northern Helicopter Charter—CASA 295/14 [F2014L01777]—Revised explanatory statement.

Civil Aviation Regulations 1988 and Civil Aviation Safety Regulations 1998—Exemption and permission—winching operations and emplaning and deplaning—CASA EX43/15 [F2015L000269].


Commissioner of Taxation—Public Rulings—
Class Rulings CR 2015/18 and CR 2015/19.
Monday, 16 March 2015


Corporations Act 2001—ASIC Class Orders—
CO 15/52 [F2015L00281].
CO 15/153 [F2015L00282].

Customs Act 1901—Customs (Prohibited Exports) Amendment (Chemicals) Regulation 2015—Select Legislative Instrument 2015 No. 13 [F2015L00246].

Environment Protection and Biodiversity Conservation Act 1999—List of CITES Species — Declaration of a stricter domestic measure in accordance with section 303CB [F2015L00277].


Fisheries Management Act 1991—
Southern and Eastern Scalefish and Shark Fishery Management Plan 2003—
Southern and Eastern Scalefish and Shark Fishery Overcatch and Undercatch Determination 2015 [F2015L00270].
Southern and Eastern Scalefish and Shark Fishery Total Allowable Catch (Non-Quota Species) Determination 2015 [F2015L00271].
Southern and Eastern Scalefish and Shark Fishery Total Allowable Catch (Quota Species) Determination 2015 [F2015L00272].
Western Tuna and Billfish Fishery Management Plan 2005—Western Tuna and Billfish Fishery Overcatch and Undercatch Determination 2015 [F2015L00268].


Superannuation Act 2005—Eleventh Amendment of the Superannuation (PSSAP) Trust Deed [F2015L00278].

Telecommunications (Carrier Licence Charges) Act 1997—Determination under paragraph 15(1)(d)—No. 1 of 2015 [F2015L00274].

Veterans’ Entitlements Act 1986—
Statements of Principles concerning herpes zoster—
No. 47 of 2015 [F2015L00253].
No. 48 of 2015 [F2015L00254].

Statements of Principles concerning malignant neoplasm of the salivary gland—
No. 57 of 2015 [F2015L00252].
No. 58 of 2015 [F2015L00261].

Statements of Principles concerning neoplasm of the pituitary gland—

CHAMBER
No. 53 of 2015 [F2015L00259],  
No. 54 of 2015 [F2015L00260].

Statements of Principles concerning Paget's disease of bone—  
No. 49 of 2015 [F2015L00255],  
No. 50 of 2015 [F2015L00256].

Statements of Principles concerning plantar fasciitis—  
No. 51 of 2015 [F2015L00257],  
No. 52 of 2015 [F2015L00258].

Statements of Principles concerning seborrhoeic keratosis—  
No. 55 of 2015 [F2015L00250],  
No. 56 of 2015 [F2015L00251].

Statements of Principles concerning spondylolisthesis and spondylolysis—  
No. 59 of 2015 [F2015L00262],  
No. 60 of 2015 [F2015L00263].

Tabling

The following documents were tabled pursuant to standing order 61(1)(b):

[Documents presented since the last sitting of the Senate, pursuant to standing order 166, were authorised for publication on the dates indicated]

Auditor-General—Audit reports for 2014-15—

No. 25—Performance audit—Administration of the Fifth Community Pharmacy Agreement: Department of Health, Department of Human Services, Department of Veterans' Affairs.

No. 26—Performance audit—Administration of the Medical Specialist Training Program: Department of Health. [Received 10 March 2015]

No. 27—Performance audit—Electronic health records for Defence personnel: Department of Defence. [Received 10 March 2015]


Crimes Act 1914—Report for 2013-14 on the Ombudsman's activities in monitoring controlled operations conducted by the Australian Commission for Law Enforcement Integrity, the Australian Crime Commission and the Australian Federal Police.

Departmental and agency contracts for 2014—Letter of advice, pursuant to the continuing order of the Senate of 20 June 2001, as amended—Department of Veterans' Affairs.

Health—Uncommon cancers—Unicorn Foundation—Letter to the President of the Senate from the Minister for Health (Ms Ley), dated 23 February 2015, responding to the resolution of the Senate of 26 November 2014.

Indexed lists of departmental and agency files for the period 1 July to 31 December 2014—Statement of compliance, pursuant to the order of the Senate of 30 May 1996, as amended—Inspector-General of Intelligence and Security. [Received 10 March 2015]

Land Sector Carbon and Biodiversity Board—Report for 2012-13. [Received 10 March 2015]

Migration Act 1958—Reports for the period 1 July to 31 October 2014—

Section 91Y—Protection visa processing taking more than 90 days.

Section 440A—Conduct of Refugee Review Tribunal reviews not completed within 90 days.

Official visit to France, Germany and the United Kingdom—Report on the visit by the President of the Senate, 10 to 19 January 2015.


Private Health Insurance Administration Council—Report for 2013-14 on the operations of private health insurers. [Received 10 March 2015]

Regional Australia—South Australian Country Fire Service—Letter to the President of the Senate from the Premier of South Australia (Mr Weatherill), dated 8 March 2015, responding to the resolution of the Senate of 10 February 2015.


Indexed Lists of Files

The following documents were tabled pursuant to the order of the Senate of 30 May 1996, as amended:

Indexed lists of departmental and agency files for the period 1 July to 31 December 2014—

Statements of compliance—

Attorney-General’s portfolio.

Infrastructure and Regional Development portfolio.