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**SITTING DAYS—2014**

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- **MELBOURNE** 1026AM
- **PERTH** 585AM
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FORTY-FOURTH PARLIAMENT
FIRST SESSION—FOURTH PERIOD

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

Senate Office holders
President—Senator Hon. Stephen Parry
Deputy President and Chair of Committees—Senator Gavin Mark Marshall
Temporary Chairs of Committees—Senators Christopher John Back, Cory Bernardi, Sam Dastyari, Sean Edwards, Alexander McEachian Gallacher, Susan Lines, Deborah Mary O'Neil, 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
Leader of the Palmer United Party in the Senate—Senator Glenn Patrick Lazarus
Deputy Leader of the Palmer United Party in the Senate—Senator Jacqui Lambie
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
Deputy Palmer United Party Whip—Senator Jacqui Lambie

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

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

**PARTY ABBREVIATIONS**

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

Clerk of the Senate—R Laing
Clerk of the House of Representatives—D Elder
Secretary, Department of Parliamentary Services—C Mills
Parliamentary Budget Officer—P Bowen
# ABBOTT MINISTRY

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<tr>
<td><strong>Prime Minister</strong></td>
<td>The Hon Tony Abbott MP</td>
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<tr>
<td><strong>Minister for Indigenous Affairs</strong></td>
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</tr>
<tr>
<td><em>Minister Assisting the Prime Minister for the Public Service</em></td>
<td></td>
</tr>
<tr>
<td><strong>Minister Assisting the Prime Minister for Women</strong></td>
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<tr>
<td><strong>Parliamentary Secretary to the Prime Minister</strong></td>
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<tr>
<td><strong>Parliamentary Secretary to the Prime Minister</strong></td>
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<tr>
<td><strong>Minister for Infrastructure and Regional Development (Deputy Prime Minister)</strong></td>
<td>The Hon Warren Truss MP</td>
</tr>
<tr>
<td>Assistant Minister for Infrastructure and Regional Development</td>
<td>The Hon Jamie Briggs MP</td>
</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>
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<tr>
<td><strong>Parliamentary Secretary to the Minister for Foreign Affairs</strong></td>
<td>Senator the Hon Brett Mason</td>
</tr>
<tr>
<td><strong>Minister for Employment</strong></td>
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<tr>
<td>(Leader of the Government in the Senate)</td>
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<tr>
<td>Assistant Minister for Employment</td>
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<tr>
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<tr>
<td><strong>Attorney-General</strong></td>
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<td>The Hon Michael Keenan MP</td>
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<tr>
<td>(Vice-President of the Executive Council)</td>
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<tr>
<td>(Deputy Leader of the Government in the Senate)</td>
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<tr>
<td>Minister for Justice</td>
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<tr>
<td><strong>Treasurer</strong></td>
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<tr>
<td><strong>Minister for Small Business</strong></td>
<td>The Hon Joe Hockey MP</td>
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<tr>
<td>Acting Assistant Treasurer</td>
<td>The Hon Bruce Billson MP</td>
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<td><strong>Parliamentary Secretary to the Treasurer</strong></td>
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<td>The Hon Barnaby Joyce MP</td>
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<td>Senator the Hon Richard Colbeck</td>
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<tr>
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<td>The Hon Christopher Pyne MP</td>
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<tr>
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<tr>
<td><strong>Minister for Health</strong></td>
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<td><strong>Minister for Sport</strong></td>
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<tr>
<td><strong>Minister for Defence</strong></td>
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<tr>
<td>Minister for Veterans' Affairs</td>
<td>Senator the Hon Michael Ronaldson</td>
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<tr>
<td><em>Minister Assisting the Prime Minister for the Centenary of ANZAC</em></td>
<td><em>Senator the Hon Michael Ronaldson</em></td>
</tr>
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<td><em>The Hon Darren Chester MP</em></td>
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<tr>
<td><strong>Minister for the Environment</strong></td>
<td>The Hon Greg Hunt MP</td>
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Each box represents a portfolio. **Cabinet Ministers are shown in bold type.** As a general rule, there is one department in each portfolio. However, there is a Department of Human Services in the Social Services portfolio and a Department of Veterans’ Affairs in the Defence portfolio. The title of a department does not necessarily reflect the title of a minister in all cases.
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- Michelle Rowland MP

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- Hon Mark Dreyfus QC MP

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- Deputy Manager of Opposition Business (House)
- Shadow Minister for Justice
- Hon David Feeney MP

### Shadow Parliamentary Secretary to the Shadow Attorney General
- Graham Perrett MP

### Shadow Parliamentary Secretary for the Arts
- Hon Michael Danby MP

### Shadow Minister for Education
- Hon Kate Ellis MP

### Shadow Minister for Early Childhood
- Shadow Assistant Minister for Education
- Hon Amanda Rishworth MP

### Shadow Parliamentary Secretary for Education
- Julie Owens MP

### Shadow Minister for Agriculture
- Hon Joel Fitzgibbon MP

### Shadow Minister for Resources
- Hon Gary Gray AO MP

### Shadow Minister for Northern Australia
- Shadow Special Minister of State
- Hon Warren Snowdon MP

### Shadow Parliamentary Secretary for Northern Australia
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### Shadow Minister for Health
- Hon Catherine King MP

### Shadow Assistant Minister for Health
- Stephen Jones MP

### Shadow Minister for Mental Health
- Senator Hon Jan McLucas

### Shadow Minister for Sport
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### Shadow Parliamentary Secretary for Health
- Senator Claire Moore

### Shadow Minister for Families and Payments
- Hon Jenny Macklin MP

### Shadow Minister for Disability Reform
- Senator the Hon Doug Cameron

### Shadow Minister for Human Services
- Senator the Hon Jan McLucas

### Shadow Minister for Housing and Homelessness
- Senator Claire Moore

### Shadow Minister for Carers
- Senator the Hon Jan McLucas

### Shadow Minister for Communities
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### Shadow Parliamentary Secretary for Families and Payments
- Senator Carol Brown

### Shadow Minister for Immigration and Border Protection
- Hon Richard Marles MP

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- Michelle Rowland MP

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- Hon Matt Thistlethwaite MP

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- Hon Shayne Neumann MP

### Shadow Minister for Ageing
- Senator the Hon Jan McLucas

### Shadow Parliamentary Secretary for Indigenous Affairs
- Senator Helen Polley

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- Senator Helen Polley

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Thursday, 30 October 2014

The PRESIDENT (Senator the Hon. Stephen Parry) took the chair at 09:30, read prayers and made an acknowledgement of country.

DOCUMENTS
Tabling

The Clerk: Documents are tabled pursuant to statute in accordance with the list circulated in the chamber.

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

COMMITTEES

Environment and Communications Legislation Committee
Environment and Communications References Committee

Meeting

The Clerk: Committees have lodged proposals to meet today as follows: the Environment and Communications Legislation Committee, for a public meeting, and the Environment and Communications References Committee, for a private meeting.

The PRESIDENT (09:31): I remind senators that the question may be put on any proposal at the request of any senator. There being no such request, we shall move on.

NOTICES


The PRESIDENT: Thank you, Senator Dastyari. That will be done.

BUSINESS

Days and Hours of Meeting

Senator CORMANN (Western Australia—Minister for Finance) (09:32): I seek leave to move a motion relating to the hours of meeting and routine of business for today.

Leave not granted.

Senator CORMANN: Pursuant to contingent notice standing in the name of the Leader of the Government in the Senate, I move:

That so much of standing orders be suspended as would prevent me moving a motion to provide for the consideration of a matter, namely a motion to give precedence to a motion relating to the hours of meeting and routine of business for today.

Today promises to be another great day in the Australian Senate. Today the Australian Senate will ensure that Australia takes another giant step forward in making sure that we pursue sensible policy to protect the environment while also encouraging and driving stronger economic growth.
Of course, what the Australian people will be able to witness again is Senator Milne having led the Australian Greens into the desert—having led the Australian Greens into complete irrelevance—because, of course, here we are dealing with a central matter of economic and environmental policy, and the Greens are standing on the sidelines. The Palmer United Party, the Australian Motoring Enthusiast Party and all of the crossbenchers other than the Greens political party are engaged in working with the government in finding common ground in the national interest and in making progress so that Australia can do its bit to help ensure that we reduce emissions in an economically responsible way. We have the opportunity today to give effect to the direct action policy that the coalition has taken now to two elections. What do the Australian Greens do under the leadership of Senator Milne, who of course is the Greens leader and who is advocating for regular reductions in the real value of the excise on fuel? We have a Greens leader now who has completely moved away from anything the Greens have stood for, which is why we all now understand that Adam Bandt is out there doing the numbers and the background briefings and letting everybody know that, if he were Leader of the Greens, he would be working with the government constructively in order to achieve sensible public policy outcomes—and no doubt in the not-too-distant future the Greens will have to make a decision on how to deal with that particular internal dynamic.

The Greens are deeply divided internally. The Greens have lost their focus on what actually matters, even from their own point of view. The Greens have let their supporters down. That is of course why the Greens are not prepared to give leave this morning for this rearrangement of the order of business, the routine of business and the hours of meeting for today. The Greens still want to stand in the way of achieving sensible public policy outcomes in the national interest, ensuring that we can reduce emissions here in Australia in an economically responsible way, providing positive incentives to businesses and individuals across Australia and encouraging them to contribute to emissions reductions moving forward.

The government is very grateful for the constructive engagement by, in particular, the Palmer United Party, the Australian Motoring Enthusiast Party and, on this occasion, Senator Madigan and Senator Xenophon. We look forward to the opportunity to debate in some detail later today, subject to the Senate agreeing to the proposed suspension so that we can deal with the variation in business hours and with the variation of the routine of business for today. I commend this motion that I have just moved on behalf of the government to the Senate.

Senator MILNE (Tasmania—Leader of the Australian Greens) (09:36): What we have here is the government showing absolute contempt for the Senate again and, this time, trying to ram through the Senate by tonight a deal that the government has done with the Palmer United Party to ram through Direct Action, which has nothing to do with reducing emissions and everything to do with the big polluters getting their sticky fingers on taxpayers' money to spend on more grants programs for themselves.

The fact of the matter is that normally a deal like this would go through a Senate committee for an assessment of what it actually means. The minister says it will reduce emissions. There is no evidence for that. RepuTex says it will not. Sinclair Knight Merz say it will not. Monash University say it will not. They have the figures. The Climate Change Authority says it will not. But, no, the government says it will, and it will not go to a Senate committee. There will be no examination of any of the claims.
What is even more farcical is this. I asked for the PUP amendments. Where are these amendments for the deal? The senators from the Palmer United Party do not have the amendments, do not even know what they are and say they will not know until Clive gives to them what they are going to be putting through today. So we have everyone here—

The DEPUTY PRESIDENT: Senator Milne, you need to refer to members in the other place by their correct titles.

Senator MILNE: Thank you, Mr Deputy President, but the point here is that we are being told that we are going to sit here tonight to pass a deal, and even the people who are involved in the deal do not know what it is, nor does anyone have an opportunity to look at it. It is $2½ billion worth of taxpayers' money that is going to be spent. There is going to be no scrutiny. That is why it is essential that this deal that has been done be referred to a Senate committee so that we can have a look at it, so that we can get the experts in to determine whether a baseline-and-credit scheme that has been proposed is going to be a carbon tax, for example. The Prime Minister said he did not want a carbon tax, but that is what baseline and credit is, so I think it would be worth looking at that.

I want to know many things about this scheme, but we are not going to know them because the Palmer United Party senators do not even know what their amendments are, and I have not even seen what the amendments are. I do not know if the Labor Party has or not. But the point is: we need to have seen them. We need to assess the impacts. That is why it is an abuse of the Senate—an absolute abuse. We have seen it twice this week. First of all, the Prime Minister engaged in sneaky behaviour to get around the fact that nobody in the Senate except the government supported their big motorway fund, and now again we see contempt of the Senate and all the Senate processes in order to ram through a deal and take $2½ billion out of taxpayers' pockets, having no idea what it is going to do. I do not believe it will go anywhere near reducing five per cent of emissions, let alone more, and more will be required.

As to the Climate Change Authority, as I understood it, Labor supported keeping it, the Greens supported keeping it and now, if the Palmer United Party supports keeping it, it will be kept regardless. So what we need here is real scrutiny of the deal, circulation of the amendments and the opportunity to look at them. Otherwise this is another contempt of the Senate, and that is why we will not support this being brought on and raced through tonight.

Senator LEYONHJELM (New South Wales) (09:40): I do not intend to support this motion. The government has a budget problem; Australia has a budget problem. Spending $2.5 billion to pay people to plant trees or collect energy from pig manure is not good use of money when there are so many things that need to be funded. There is no evidence that the plan will do anything to reduce carbon dioxide emissions or Australia's contribution to climate change, and there is no urgency associated with this legislation, except for the risk that Mr Palmer might change his mind by the time we come back into the next session. I know from my private conversations that there are very few senators on the government side who actually support this legislation. There is nothing urgent about it. It does not need to be jammed through today.

Senator XENOPHON (South Australia) (09:41): Can I indicate that I will be supporting this motion. I think it is important that we deal with these matters. I know Senator Leyonhjelm has made a contribution saying that this is a waste of taxpayers' money. I respectfully disagree. I believe that there ought to be fulsome debate in relation to these
issues, because climate change needs to be addressed. The amendments that have been agreed to by the government, which I will be moving and which the Palmer United Party will be moving, will substantially improve Direct Action and put a much better and more robust framework in place.

But that is not actually the motion that we are dealing with. The motion, as I understand it, is that standing orders be suspended to allow a variation of sitting hours to allow this legislation in respect of Direct Action and the Carbon Farming Initiative to be dealt with from eight o'clock tonight until the matter is disposed of. That is not a gag. That is not truncating debate. It is to allow a fulsome debate in relation to this.

Now the whip is walking towards me. I hope he is not going to tell me I have made a mistake—no, I have not—in relation to my understanding of the motion. So I will support the suspension of standing orders. I will support a debate on this. There is an element of urgency in respect of this issue, and it is this: there are something like 171 projects in limbo, in a sense, because of the legislative uncertainty. There are many hundreds more projects that I think will be funded in respect of carbon abatement.

I absolutely respect what Senator Milne has said, that there needs to be adequate scrutiny of this legislation. That is why I will not be supporting any gag on this bill. We need to have adequate debate, a fulsome debate, so that when people have run out of questions it can be put to a vote. But, in short, I think it is important that we debate this sooner rather than later and do it in a fulsome manner.

Senator IAN MACDONALD (Queensland) (09:43): I just want to correct Senator Leyonhjelm. The coalition totally supports this proposal. I am not sure where he got his information from. But I do not want to abuse standing orders like a couple of the previous speakers by speaking about things other than the motion before the chair, and the motion before the chair is that so much of standing orders be set aside as would prevent Senator Cormann from introducing a bill. The motion provides for debate on this particular subject.

Senator Milne, not that she addressed the motion terribly often, says it needs scrutiny. We went to an election on this promise. The people of Australia knew what we were on about, and you know the result of the last election, Senator Milne—an overwhelming majority for those who supported the abolition of the carbon tax, the abolition of the Climate Change Authority and the introduction of a direct action policy. So the people of Australia want that. I know the Greens are never terribly interested in what the people of Australia want, but the people of Australia made their views very clear.

It is not a new initiative that has been sprung upon the parliament. It is not anything that should take the parliament by surprise. It is something, as I say, that has been around in public debate for more than a year now. So the sooner we can get on and have the debate the better.

I am a bit unhappy that the Climate Change Authority—a useless body—is made up of people who have already made up their minds on the inquiry it is supposed to have. I heard one of the members talking on the radio today, saying, 'The government is not going to take any notice of what we decide, because we are going to say this.' Why bother with the inquiry if some members of the Climate Change Authority have already determined the issue before they have even got the terms of reference for the inquiry? But that is beside the point. We all know how this place works. The Climate Change Authority appears to be a necessary evil.
Getting back to the motion, it is important that this policy which was approved by the Australian public more than a year ago is debated in this chamber. Senator Xenophon is quite correct. As I understand the arrangements, we will debate this for as long as is necessary. Senator Milne again raises issues of insufficient debate when she was the one who, with her colleagues in the Labor Party, continually stopped debate in the last six years. I remember, as does everyone who was here in the Senate in those times, how the Greens supported the Labor Party and, in fact, in many cases moved the motion that we deal with seven or eight significant bills with not one word being debated on them. For Senator Milne to come here and say debating this issue for the rest of the evening tonight is not sufficient is the hypocrisy of the Greens political party. They do one thing when they have the power and curtail all debate on seven important bills without one word being spoken but then complain when an issue that has been around for so long and has been debated for so long is brought forward. It will be up to Senator Milne, I guess. We could have a 12-hour or 24-hour debate on it, if that is what she wants. To complain about that, in view of the Greens' attitude to these things in the past, is just hypocritical in the extreme.

I certainly support the motion. I would like to hear Senator Cormann move the bill and hear the debate so that we can all take part in it and understand, if we need to, what the government is proposing and then make a decision on it.

Senator MOORE (Queensland) (09:47): Labor's position is that we oppose the government's proposal to have extended hours tonight, particularly because of the way that this motion was formed. We have a motion before us that says that we will sit until the end. It leaves it open in that way. In many ways, this is extra pressure on the Senate. It is a threat to the Senate today, saying, 'We have brought on a bill and we have a process.' We know the situation. We know that the government have the numbers because we have read the papers and we know that a deal has been done. That is how it works. I am not saying that this is the only deal that has ever been negotiated in this place, particularly with crossbenchers. That is how the process works. But what we have today is a motion we have not seen before that has come in and says, 'This particular bill, which was not scheduled, is now coming through today and we are going to have an agreement by the Senate to sit until it has'—and I love this term—"finally considered the bill".' It is a threat that says: 'If you want to ensure that the debate is fulsome, the pressure is on you. You can keep talking, but it will be until 2 am, 4 am or whatever.'

It is that to which we are objecting. We are objecting to the fact that this bill is being brought forward now. This bill has great intent in it and great issues to be considered, but why could they not be debated in standard Senate hours? Why do we need, on the Thursday morning, to come in here and say: 'We actually have to move this forward tonight and we're going to sit as long as it takes, so it's up to you guys. Fold or close; that's how it is.' That is the threatening aspect to which I object, and to which we object.

They have whacked in a motion that says that we will just keep on working; there is no intent here, again, of having any break this evening where a break is a standard process—not so much for us, but for the people who work in the operations of the Senate. We come in here for a 9.30 am start with a proposal that we just work through the day for as long as it takes—which actually says 'you shut up' basically. There are elements around this that are about the important concerns we have about this bill, because it is not straightforward. There is
complexity; there is difference of opinion. We expect that those things should be appropriately debated.

We are going to vote against this motion for extended hours and the way it operates. I want to put on record that we have made a number of calls for extended time in this place—extended hours tonight. Further down in the schedule today, we have a proposal to have more sitting hours. Again, as we have said, we can sit all the time, but come forward and talk about the urgency when you put this forward rather than saying, 'This is an important day for the Senate'. What is the urgency, the absolute urgency, about changing the scheduled hours that we have to ensure that we do not have the options to look at the consideration of the process in an extended way? There should not be this threat put to the Senate; there should be respect for the Senate processes. We should have the opportunity to have a debate, to ask questions, rather than have hanging over us an ultimatum that says, 'Tonight or never'. That is what we are opposed to.

We also want to put on record that this opposition has been consistently supportive of genuine urgent requests from the government to have extended time rather than what we heard the other day in debate, that we have not been. Check the Hansard to see what support this opposition has given when there have been proposals for genuine further consideration. This is not one of those; this is a proposal that says, 'We've got a deal done and we're going to push it through tonight and that will be the end of it.' I just do not understand how that allows the Senate to operate as it should—giving every senator the option of putting their thoughts and concerns, if they have any, about this process forward in an appropriate way. As it is, it is trial by fatigue: you go into the trenches and you hang around as long as you can until you finally cannot talk any more. And we are not talking—(Time expired)

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

The Senate divided [09:57]

The President—Senator Parry)

Ayes ..........................33
Noes ..........................31
Majority .................2

AYES
Bernardi, C
Bushby, DC (teller)
Cash, MC
Cormann, M
Fawcett, DJ
Heffernan, W
Lambie, J
Madigan, JJ
McGrath, J
Nash, F
Parry, S
Reynolds, L
Ruston, A
Scullion, NG
Sinodinos, A

Birmingham, SJ
Canavan, M.J.
Colbeck, R
Edwards, S
Fieravanti-Wells, C
Johnston, D
Lazarus, GP
Mason, B
Muir, R
O'Sullivan, B
Payne, MA
Ronaldson, M
Ryan, SM
Seselja, Z
Smith, D
Thursday, 30 October 2014

SENATE

AYES

Wang, Z
Xenophon, N

Williams, JR

NOES

Bilyk, CL
Cameron, DN
Conroy, SM
Day, R.J.
Faulkner, J
Hanson-Young, SC
Leyonhjelm, DE
Ludlam, S
Marshall, GM
Milne, C
O'Neil, DM
Rhiannon, L
Siewert, R
Sterle, G
Waters, LJ
Wright, PL

Bullock, J.W.
Collins, JMA
Dastyari, S
Di Natale, R
Gallacher, AM
Ketter, CR
Lines, S
Lundy, KA
McLucas, J
Moore, CM
Polley, H
Rice, J
Singh, LM
Urquhart, AE (teller)
Whish-Wilson, PS

PAIRS

Abetz, E
Back, CJ
Brandis, GH
Fifield, MP
Macdonald, ID
McKenzie, B
Wong, P
Peris, N
Carr, KJ
Brown, CL
McEwen, A
Ludwig, JW

Question agreed to.

Senator CORMANN (Western Australia—Minister for Finance) (09:59): I move:

That a motion relating to the hours of meeting and routine of business for today may be moved immediately and have precedence over all other business today until determined.

I move:

That the question be now put.

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

Question agreed to.

The PRESIDENT: The question now is that the precedence motion moved by Senator Cormann be agreed to.
The Senate divided. [10:01]

(The President—Senator Parry)

Ayes ...................... 33
Noes ...................... 31
Majority ............... 2

AYES

Bernardi, C
Bushby, DC (teller)
Cash, MC
Cormann, M
Fawcett, DJ
Heffernan, W
Lambie, J
Madigan, JJ
McGrath, J
Nash, F
Parry, S
Reynolds, L
Ruston, A
Scullion, NG
Sinodinos, A
Wang, Z
Xenophon, N

Birmingham, SJ
Canavan, M.J.
Colbeck, R
Edwards, S
Fieravanti-Wells, C
Johnston, D
Lazarus, GP
Mason, B
Muir, R
O’Sullivan, B
Payne, MA
Ronaldson, M
Ryan, SM
Seselja, Z
Smith, D
Williams, JR

NOES

Bilyk, CL
Cameron, DN
Conroy, SM
Day, R.J.
Faulkner, J
Hanson-Young, SC
Leyonhjelm, DE
Ludlam, S
Marshall, GM
Milne, C
O’Neill, DM
Rhiannon, L
Siewert, R
Sterle, G
Waters, LJ
Wright, PL

Bullock, J.W.
Collins, JMA
Dastyari, S
Di Natale, R
Gallacher, AM
Ketter, CR
Lines, S
Lundy, KA
Mclucas, J
Moore, CM
Polley, H
Rice, J
Singh, LM
Urquhart, AE (teller)
Whish-Wilson, PS

PAIRS

Abetz, E
Back, CJ
Brandis, GH
Fifield, MP
Macdonald, ID
McKenzie, B

Wong, P
Peris, N
Carr, KJ
Brown, CL
McEwen, A
Ludwig, JW
I thank the Senate. I move: 

(a) the hours of meeting shall be 9.30 am to adjournment;
(b) the routine of business from not later than 8 pm shall be consideration of the government business order of the day relating to the Carbon Farming Initiative Amendment Bill 2014;
(c) the adjournment of the Senate shall be proposed:
   (i) after it has finally considered the bill listed in paragraph (b), or
   (ii) a motion for the adjournment is moved by a minister, whichever is the earlier; and
(d) divisions may take place after 4.30 pm.

I move:

That the question be now put.

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

Question agreed to.

The PRESIDENT: The question now is that the substantive motion moved by Senator Cormann be agreed to.

Question agreed to.

BILLS

Trade and Foreign Investment (Protecting the Public Interest) Bill 2014

Second Reading

Debate resumed on the motion:

That this bill be now read a second time.

Senator WHISH-WILSON (Tasmania) (10:04): This is a very important piece of legislation that is before the Senate. The Trade and Foreign Investment (Protecting the Public Interest) Bill 2014 is a bill about restricting power of corporations to sue and harass sovereign governments in how they go about enacting legislation on behalf of the Australian people or their nations around the world. It is about giving parliament and parliamentarians a say in our democracy and some influence over secret trade deals. It is about helping to take politics out of our secret trade deals. But mostly it is about protecting our democracy, our sovereignty as a nation, the environment and workers and about bringing much-needed balance back to the trade debate. It is about getting power back to communities. Lastly, and personally to me, who brought the bill to the Senate, it is making a statement about the kind of society that we want to live in.

Investor state dispute settlement clauses are one of two types of dispute resolution mechanisms in modern trade deals. There are state-to-state dispute mechanisms, where a country can take action against another government over a breach of a trade deal, and there are mechanisms where private investors can take their own, personal, action against governments through shady, secret arbitration panels. Essentially, what we have set up in modern trade deals is a parallel system of governance that gives corporations the right and
ability to impinge directly upon our ability as parliamentarians to enact legislation in the public interest. Corporations do this if they feel that a government policy or a change in policy has directly affected their profitability or their investment.

It is not only the Greens who are trying to raise the profile of this issue in Australia. A number of other stakeholders in this country are trying to raise the profile of this issue. The Centre for Civil Society has been talking about this issue for a number of years. I see Senator Macdonald in the chamber. He would well remember a similar debate back in 2004 around the US-Australia free trade deal, when his government, under John Howard, refused to sign on to investor state dispute settlement clauses in that trade deal for a very good reason, which Senator Macdonald no doubt knows very well.

This is an issue not just for Australian society; it is an enormous issue all around the world. I was visited by the French consulate about this bill. They came to consult with me and find out more about why we are introducing this bill. They said that ISDS, investor state dispute settlement, clauses had made the front page of both French national newspapers for two days in a row. Two days in a row, on the back of riots in Europe on this issue! The appointment of a trade commissioner in Europe and her wanting to leave ISDS clauses out of free trade agreements negotiated with the US has led to a fracturing of politics in Europe. Whether these clauses are to be allowed in modern trade deals is a hugely contentious issue. In the US it is also an enormous political issue.

We put this bill to parliament—it was inquired into by the Senate Foreign Affairs, Defence and Trade Legislation Committee—because we wanted to raise the level of national debate about the inclusion of such clauses in modern trade deals. I was very grateful when High Court Chief Justice French wrote a paper partly on this bill and around this bill, saying that this country, especially the legal fraternity, needed to have a national debate on whether these clauses should be included in trade deals.

While I was away on holidays—I went on a surfing trip to Indonesia, so I was only able to take a couple of small books with me—I took with me a political essay by Laura Tingle, called 'Great Expectations'. The essay talked about the disconnect in this country between the Australian public and politicians and why politicians are held in such low esteem by the Australian public. It explored a lot of reasons why Australian voters and the Australian public felt that politicians and parliamentarians had lost control of various agendas, particularly in a world of globalisation. It talked about a growing sense of anxiety and alienation in our community and why people were feeling this sense of loss of power over their own lives. It was an excellent expose of some of the deeper underlying issues in our society.

I personally have never felt as acutely this perception and real feeling of loss of control that people in this country have as when I have been talking to people about the free trade debate. This is no secret. Free trade negotiations have been going on for decades and they have always attracted controversy, because the increased opening up of our economies and globalisation of our society have led to very significant changes across our laws, our institutions, our regulations and of course our communities. Now, as we get further and deeper into opening our economies, this issue is becoming more acute. What we have got left to trade is a lot more sensitive. It is a significant matter of public interest right around the world.
The Trans-Pacific Partnership Agreement is one example. It is the largest trade deal this country is negotiating, covering 40 per cent of GDP. On the weekend, Minister Robb dismissed the concerns of civil society and, may I say—having been through Senate inquiries on this—not just civil society; he dismissed concerns of the Productivity Commission and a number of very conservative commentators around the way trade deals are done, negotiated in secret, and about the inclusion of things such as investor-state dispute settlement clauses. He dismissed these too easily and too quickly. It seems that perhaps Laura Tingle is right that a number of politicians and parliamentarians are out of touch with the way the Australian public are feeling with respect to the decisions that we make in this House about things that directly impact the future.

What is it about free trade deals that cause anxiety, mistrust and frustration in the Australian community? I think people realise, from looking at the track record, that negotiations involve trade-offs. You have to give up something to get something. Yet it is only sold to them that somehow these deals are beneficial. There are always costs to trade deals. There have to be, by definition. Every textbook you pick up as a university student talks about this. But we only ever hear about the wins. We only ever hear about the increased agricultural access. But people can see over the years the changes to their communities and to society.

We have seen the collapse of the car industry. I believe one of the reasons the Korean free trade deal was not finalised by the previous Labor government was that they knew it would be the straw that broke the camel’s back with the car industry. The Labor Party also knew that it would involve signing ISDS clauses. During hearings of the Joint Standing Committee on Treaties, we heard evidence from a number of stakeholders that the ISDS clause was what had prevented this deal from being signed, because Labor had taken a very strong view on including these undemocratic and dangerous provisions in trade deals. But, unfortunately, it looks like Labor will vote for the Korean free trade deal with ISDS. I will get to that in a minute.

In this debate about trade, who picks the winners? If we have trade-offs in negotiations, who actually picks the winners? How highly politicised is it from the minister and the executive, who control the trade deals and are the only ones who know what is going on behind closed doors? How politicised is this process in picking winners if the power always lies with the executive?

The secrecy is a very serious issue, not just for the Greens and for civil society; the Productivity Commission itself has consistently raised the lack of transparency around trade deals as being a serious issue. The Australian Chamber of Commerce and Industry said there is no need for the secrecy and lack of transparency and that we should be looking at totally redoing our trade negotiation process in this country. Parliament has no oversight in the decisions that are made behind these closed doors. When the final text has been signed and is in train by the government, when the media machines are working overtime to sell these so-called benefits of free trade deals, then we get to scrutinise it. But by that stage it is too late. You either vote against it because there are things you do not like about the trade deal, such as the inclusion of ISDS, or you vote for it. You cannot change it.

As I said yesterday, you take it lock, stock and barrel or get two smoking barrels straight in the face, standing in front of a speeding train. You are anti-Australian and anti-economy,
when you have very serious and justified issues about these trade deals, their outcomes and the way they are negotiated—the influence of foreign countries and their agendas, the stakeholders behind trade deals. We think trade deals are all about governments negotiating in our names, but actually behind those government negotiators are special interests, mostly corporate interests. Let me tell you trade and free trade deals are about deregulation. That is what they are about. They are about deregulation and they are about business agendas.

Coming back to this feeling of anxiety that we have in our community about the role of government, many people see these trade deals as a corporate takeover of our country, our institutions and our government by stealth—by stealth because they are conducted in secrecy. We need to change the way we do trade deals in this country, but try and understand that trade deals themselves and the emphasis we put on trade have changed considerably over the decades that we have been opening our economy. Trade deals today are now less about putting things on ships—really tangible concepts that Australians understand: selling iron ore, beef and wine, importing cars—and more about services and promoting services. The future of trade deals, such as the trade in services agreement that is being negotiated, is about investment and protecting direct foreign investment in different countries.

Of course, these deals rely on synchronising laws and regulations between countries. That is what they are now. By default, they are about synchronising laws and regulations between countries—and in whose interest? In the interests of US multinationals? Twenty-three out of the 29 chapters in the transpacific partnership agreement do not relate to trade the way we traditionally understand it. They are all about changing laws and regulations between countries, synchronising and standardising laws and regulations. These are significant matters of public interest in a whole range of different areas—local content for media, the environment, the ability to have moratoriums and flexibility in environmental policy, labour and working standards, policy on pharmaceuticals and access to health care. All these things are being done in secret.

I want to debunk some of the arguments against this bill and against removing ISDS, that somehow these ISDS cases have been around for a long time and that we are very comfortable with them. Guess what—they are proliferating. Ten years ago there were only a dozen ISDS cases around the world. Now there are nearly 600, because the nature of trade deals is changing. They are about protecting direct foreign investment in different countries.

And it is not just First World countries that are having cases brought against them, such as the Australian government being sued by Philip Morris—an aggressive tobacco company trying to change our health policy in this country, trying to intimidate our government, sending a strategic message across the world: ‘If you're a Third World country, don't you dare change packaging regulations that impact on our profits. We will sue you. We will spend whatever it takes to achieve that outcome.’ This is what got Chief Justice French involved in this debate. And, by the way, Philip Morris is suing the government of Guatemala for doing the same thing, and there are a number of other cases against Australia through the WTO for trying to change our health regulation in this country. This is an example of aggressive corporations trying to sue governments.

These ISDS clauses have been around for 20 or 30 years. They were simply about expropriation of assets. But now there are significant shades of grey about what powers corporations have and their ability to bring cases against governments. We have so-called
carve-outs and exceptions now written into these clauses. Do they work? Not according to nearly all the experts around the world. The evidence presented to the committee inquiring into this bill is that they do not work. They certainly do not stop litigation, like the Philip Morris litigation being brought against the government, which we know causes regulatory chilling. It is a very simple way for a corporation to put pressure on sovereign governments not to bring in legislation.

We do not even know how many threats there have been behind the scenes. There is an excellent expose by the ABC on Background Briefing, which goes for 45 minutes and comprehensively covers all the issues on ISDS. They interviewed an expert, Toby Landau, who had been consulting for the UK government. He talked in detail about all the cases he had worked for the UK government around the potential to be sued if they brought in the policy. He said that it is a very real risk that has to be taken into account now by our public servants and our politicians when they bring in policy. You need to consult on this stuff now, because it would give corporations a right to sue sovereign governments if they disagree with our policies.

We know from some of the outcomes from around the world that these legal suits can lead to tens of billions of dollars' worth of losses to taxpayers and citizens in those countries. El Salvador is being sued by OceanaGold, an Australian company based out of Melbourne, for US $300 million. They had a mining licence revoked because of issues around a corrupted process and environmental damage. They are not just suing for the money they have sunk into their exploration; they are suing for lost income—$300 million, which I understand is about half the education budget of El Salvador.

For anyone who says we can have these deals now and that we can safely include them in trade deals, I suggest you go and read a publication that the EU recently commissioned. It has hundreds of the best legal minds in the world saying, 'Do not include these carve-out and exception clauses in trade deals.' By the way, that is exactly what the Productivity Commission said here: 'Do not include these clauses in trade deals'. They bring no benefits; there is no evidence of any increased flows in direct foreign investment across borders or increased trade, but there is plenty of evidence that they significantly bring risks to any country that does have these deals. That is why John Howard did not sign up to it; that is why the Labor Party refused to sign up to deals that included ISDS. Now we will have the Korean free trade agreement legislation coming into the Senate shortly and it includes ISDS. Labor voted for it in the lower House; will they vote for it in the Senate? If they vote for KAFTA with the government—which has clearly changed its tune on this as well—then what do we do for the Transpacific Partnership Agreement? It is the biggest trade deal in this country's history and it has US companies involved and they are the most litigious—the statistics are simple—investors who use investor-state-dispute-settlement clauses.

It is not just Australia that I am worried about; I am worried about the impact on other countries in our region, which are poorer and do not have the money that first world countries have; their environmental and labour standard policies may be impacted by aggressive corporations that try to protect their profits and their shareholders. I would say to the Labor senators: if you want a good expert's say on this, print out Melissa Parke's article in The Guardian yesterday—it is an excellent article on why we should not have ISDS clauses in trade deals. It is a really good and well-written article—you should read it. She understands
that including these clauses in trade deals will open a can of worms. I would say to the Liberal senators: have a look at the printout from the DFAT website 10 years ago when John Howard refused to include these in trade deals. It clearly says that we do not need these clauses; that we have strong political institutions in America and Australia; and that these things can be negotiated if they are needed. What has changed in 10 years? We are still doing a lot of business with the US, as we are with Korea. We do not have these in place now, and so why do we need them for the future? They are unnecessary and they present significant risks.

Let's make a strong, visible decision today to protect our government's ability to legislate in the public interest and protect our sovereignty, our communities, our workers and our environment. In other words, let's protect the public interest; let's send a message to the Australian people that we do have control and that we will stand up for them. Today I ask the Senate to vote for the bill. Let's wrestle back power and allow the Australian people to at least start wresting back power and influence over their own future and the lives of the communities. Let's not weaken our democracy; let's take a very visible stand today and implement this bill and set an international standard.

Senator McGrath (Queensland) (10:25): It gives me great pleasure to speak on the Trade and Foreign Investment (Protecting the Public Interest) Bill 2014. I think the bill probably is well-intentioned, but I do not think it is a bill that I can support or that my party would support.

To bring a blanket ban in on the inclusion of ISDS clauses in free trade agreements would be wrong and would certainly limit the ability of the government to negotiate the best possible deals for Australia and Australian exporters, so the government is considering the inclusion of ISDS clauses in free trade agreements on a case-by-case basis.

There is a great deal of scaremongering with regard to the ISDS approach and the fears raised are simply unfounded judging by Australia's extensive level of experience with them. It is important to remember that ISDS is not a new concept for Australia. We currently have ISDS clauses with 28 economies through four free trade agreements and 21 bilateral investment treaties—these have been agreed to over the past 25 years—and as the minister for trade has pointed out the world certainly has not ended—in fact, far from it. Modern ISDS provisions provide very explicit carve outs and safeguards to protect our ability to govern and regulate in our national interest. ISDS is not a mechanism which allows for frivolous claims. The Labor Party included ISDS provisions in the Australia-Chile Free Trade Agreement and in the ASEAN-Australia-New Zealand free trade agreement back in 2009. The main thing is that ISDS provides protection for those who choose to pursue new opportunities for Australia by investing abroad.

I now want to just talk about a couple of Australian companies who have made use of ISDS overseas. In November 2011 a tribunal awarded White Industries Australia Ltd, an Australian mining company, compensation from India for violating the India-Australia agreement. Details of the award were announced in February 2012. White Industries complained that the Indian courts failed to enforce a foreign arbitration award obtained in 2002 in a dispute between White Industries and its Indian joint venture partner, Coal India Ltd—an Indian state-owned entity. In 2011 Tethyan Copper Company formally commenced ISDS provisions against the government of Pakistan, alleging that Pakistan was in breach of its obligations under the Australia-Pakistan IPPA. In December 2012 Planet Mining's ISDS request against the government of Indonesia was registered by the International Centre for Settlement of
Investment Disputes. This was a claim brought under the Australia-Indonesia IPPA in relation to a five per cent stake in an Indonesian company whose exploitation licenses for a coal deposit in Kalimantan had been revoked. In November 2013 the Canadian company Pacific Rim Mining Corporation became a wholly-owned subsidiary of the OceanaGold Corporation. In June 2009 PacRim registered an ISDS request against the government of El Salvador under the US-Central American-Dominican Republic free trade agreement and El Salvador's investment law. This claim was dismissed in June 2012 as a result of a denial of benefits clause. This claim is ongoing under El Salvador's investment law.

Why I talked about those cases—they are the only cases that Australian companies are dealing with at the moment—is that we have to protect Australian companies who want to invest overseas. It is Australian companies who create jobs; it is Australian companies who help grow the economy. Australia is a free trade economy. We are a trading nation. I might digress a little bit. Over the 2000s Australia's ratio of exports and imports to GDP has risen each year. We are an open economy. The size of our import and export sectors is greater than 20 per cent of gross domestic product. Australia is one of the main countries that has benefited from rising international trade. In fact, if we did not have trade and had a closed economy, you would find us becoming one of those closed economies, like Burma or places like that, where we would lose jobs, we would lose wealth and we would be unable to spend any of the money that those opposite want us to spend. Reducing tariffs is producing an estimated savings of at least $1,000 per year to the average Australian family. For example, without the reductions to tariffs on motor vehicles Australians would pay around $10,000 extra on a $30,000 car. Greater access to imports has benefited consumers and businesses by widening the choice of products available and boosting the living standards for many Australians. For us to limit the ability of our government to negotiate agreements with overseas countries by having a blanket ban on ISDS clauses would limit our ability to grow the Australian economy.

There are a number of people who put in evidence to the various committees that looked into the Korean free trade agreement and also to the Senate Foreign Affairs, Defence and Trade Legislation Committee, a committee that recommended against this bill, by the way. Professor Nottage, who is a professor of law at the Sydney Law School, in evidence told the committee that while he thought that the bill was well-intentioned, in the sense that the ISDS treaty based system is far from perfect, he could not support the bill. He said:

[it] would make Australia unique among developed countries and put us in the company of a very few countries, even among developing countries, mainly a few very Leftist regimes in South America. I think it would torpedo future trade and investment treaty negotiations to which the major parties in Australia have long been committed, as well as potentially inhibit the development of multilateral initiatives and international investment law.

In its submission to the committee DFAT argued that the bill may prevent the government from concluding negotiations to benefit Australian producers, consumers and the broader community—something I talked about just before. Furthermore, DFAT went on to say—and I am looking at the report—that excluding ISDS provisions from future trade agreements would impose a significant limitation on the ability of the government, of whichever party, to pursue its broader trade and policy objectives. The report also says:
The Australian Chamber of Commerce and Industry expressed concern that although Australian investors have not utilised ISDS provisions to any great extent in the past—
and I have just talked about the four cases that are public and that I am aware of—
if a ban on ISDS provisions was implemented it would prevent Australian firms from being able to protect their international interests by using such provisions. The Australian Dental Industry Association noted similar concerns in the dental industry. Having sat on the committee and also sitting on the joint Senate committee on treaties, I have done a bit of reading in this area. I think the committee's conclusions are conclusions that I certainly strongly agree with; I supported the motion of the committee.

I think the ISDS system has improved significantly over recent years both in the way in which treaties are drafted in relation to ISDS causes and the way in which cases are argued and how arbitrators decide cases. The committee noted:

Australia … stands to gain more by remaining actively engaged with the international investment law system … where ISDS provisions apply.

The committee noted:

… were Australia to legislate for a blanket ban on ISDS provisions in trade agreements, it would be sending a message to existing and potentially new trading partners that Australia was turning inward-looking and distancing itself from the international law system.

I think that comes to one of the key points here: the government are not saying that each agreement must have ISDS clauses, and we are not having the Greens position, saying that they must not be included; we are saying that it should be decided on a case-by-case basis. The committee was:

… of the view that a blanket ban on ISDS would impose a significant constraint on the ability of Australian governments to negotiate trade agreements that benefit Australian business. It is for this reason that the committee considers the current case-by-case approach to ISDS is in Australia's long-term national interest and a sound policy for weighing the risks and benefits of ISDS provisions in trade agreements.

I will not list the ISDS provisions in the 21 investment protection and promotion agreements, or IPPAs, but I will briefly touch upon the Korean free trade agreement.

The Korean free trade agreement contains a number of safeguards and carve-outs in four areas. There are safeguards built into the core obligations of the investment chapter. There is a schedule of reservations which allows Australia to maintain existing measures and to reserve policy space to maintain or adopt new measures in sensitive areas. There are exceptions and other carve-outs, and there are actually procedural safeguards built into the ISDS mechanism. I think it shows that the ISDS approach has evolved and changed since such provisions were first brought in over two decades ago.

The safeguards built into the core investment obligations have been developed as a result of the experience of states defending ISDS disputes under the older style agreements. These safeguards are binding on any ISDS tribunal and so reduce the risk of obligations being interpreted in an overly broad way. They include a statement that, except in rare circumstances, non-discriminatory regulatory actions by a party to protect legitimate public welfare objectives, such as public health, safety and the environment, do not constitute expropriation; and a clarification that the obligations of 'fair and equitable treatment' and 'full protection and security', which have been interpreted broadly by some tribunals, are limited to the minimum standard of treatment required under customary international law.
Australia has scheduled reservations to preserve policy space in sensitive areas. In addition to the reservations which Australia generally includes in free trade agreements, the Korean free trade agreement includes several additional broad reservations which preserve our ability to maintain existing measures or adopt new measures in relevant sectors and areas, including essential security, with respect to foreign investment proposals; human health; blood and blood products; and providing preferences to socially or economically disadvantaged groups. In addition, Australia has included reservations which also appear in other free trade agreements and which provide policy space in relation to Indigenous persons or organisations; social services such as social welfare, public education, public housing, public utilities, health and child care; creative arts and cultural heritage; and gambling.

There are procedural safeguards in the ISDS mechanism. These include an expedited procedure to decide preliminary objections and to dismiss unmeritorious claims promptly and the power for the tribunal to award costs against an investor if it makes frivolous claims; a provision that a joint interpretation by the parties, Australia and Korea, is binding on the tribunal; and the ability of the tribunal to consolidate claims where they arise out of the same event. This also is able to provide a high degree of transparency.

In relation to exceptions and other carve-outs: Australia's carved out decisions under our foreign investment policy—the Foreign Investment Review Board—to object or to impose conditions on a proposed investment from the scope of ISDS: the World Trade Organization based general exceptions apply to all obligations of the investment chapter. These include exemptions for measures to protect human health and the environment. A WTO based essential security exception applies to the investment chapter and includes an additional safeguard provided if a party invokes the security exception in an ISDS dispute, the tribunal shall find that it applies. There is also a specific tax exception which carves out tax measures from most of the investment obligations.

The inclusion of ISDS was not a controversial issue in the Chile free trade negotiations. Both sides there agreed on the importance of providing investor protections. For the free trade agreement overall, both sides agreed that negotiations should be concluded as quickly as possible. This was facilitated and helped by the fact that both Australia and Chile had bilateral free trade agreements with the United States and guiding principles to stick to the approach taken in these agreements to as much an extent as possible.

On the issue of ISDS in particular, Chile's free trade agreement with the US included ISDSs and, as such, both sides were prepared to consider the inclusion of ISDSs. Australia and Chile already had an ISDS under an old bilateral investment treaty, and the free trade agreement negotiations allowed Australia and Chile to develop a more sophisticated approach to ISDS with more safeguards. And both sides had to agree to terminate the old bilateral investment treaty as part of the agreement.

By going through those two free trade agreements, I think it is important to note that the previous government and this government have taken the issue of ISDSs very seriously and have used it as a serious negotiating block in terms of whether it should be included or not. To put a blanket ban on the inclusion of ISDS provisions into any free trade agreements, bilateral agreements or whatever would certainly restrict the ability of Australia to negotiate. I take the point that concerns have been expressed in relation to secrecy in how we negotiate our free
trade agreements, but I think it is probably a little bit naive to want to have our agreements negotiated out in the public domain.

It is very important that, once they are negotiated, they do come to the parliament and go through the Treaties Committee, so ably chaired by the member for Longman, and that the treaties are then put to parliament. To suggest that we should negotiate treaties publicly or that it is somehow an attack or affront on democracy that we do not know about the treaties until they come along, I think is wrong. I think it would limit and hurt our negotiating position if suddenly our good friends at Fairfax Media, or Sky News or whoever were reporting on our latest negotiating tactics were. I think it would result in a poorer treaty being agreed, and a poorer treaty would mean that Australians would be poorer. And if Australians were poorer it would mean that we could not have investment and create jobs. And if we do not have the jobs we cannot have the taxes. So, we need to make sure that the Australian economy can grow. I do not think that bringing a ban in on ISDS clauses is the way to do that. I think the current system of the ISDS provisions being negotiated on a case-by-case basis is the best way forward. For that reason, I do not support this bill put forward by the good senator opposite.

Senator McEWEN (South Australia—Opposition Whip in the Senate) (10:44): The opposition will not support passage of the Trade and Foreign Investment (Protecting the Public Interest) Bill 2014. Labor oppose the inclusion of investor-state dispute settlement provisions in trade agreements. However, Labor cannot support the remedy proposed by this bill.

This bill would significantly constrain the executive powers of the government of the day. This approach runs against the constitutional division of powers between the executive and the legislative arms of government in our democratic system. This approach would also create a precedent, undermining the ability of elected federal governments to make progressive reforms in Australia by entering international treaties and conventions.

Labor is a progressive party of government. Over decades, Labor governments have used the Commonwealth treaty-making powers to implement a whole series of progressive reforms in the national interest: progressive reforms to protect the environment, to tackle climate change, to protect human rights, to protect employment and workplace rights, and to prohibit racial discrimination. These are progressive reforms which Labor governments have introduced by using the power of the executive to enter international treaties.

Earlier this week, this Senate paid tribute to former Prime Minister Gough Whitlam. I remind the Senate that the Whitlam government ratified the World Heritage Convention using the executive treaty-making powers which this bill seeks to constrain. It was only because the Whitlam government ratified the World Heritage Convention that the Hawke government was then able to save the Franklin River and the World Heritage listed wilderness areas of western Tasmania. That is something which the Leader of the Greens, Senator Milne, acknowledged in a speech on Gough Whitlam on Monday this week. That is why I am surprised that the Greens, a party formed out of the campaign to save the Tasmanian wilderness, would now week to create a precedent curtailing the executive's treaty-making powers. If that precedent had been in place in 1974, the conservative Senate of the day would have blocked ratification of the World Heritage Convention, and the Franklin River would have been dammed as a result.
I now turn to the issues concerning investor-state dispute settlement provisions. This bill seeks to constrain current and future governments' executive treaty-making power. It would work as a legislative constraint on government from entering into any international agreement that contains investor-state dispute settlement provisions. These provisions, commonly called ISDS provisions, provide foreign investors with greater rights than domestic investors. They grant foreign investors the right to access an international tribunal if they believe actions taken by a host government are in breach of certain commitments made in a free trade agreement or an investment treaty. The ISDS mechanism dates back to shortly after World War II. Inexperienced governments of newly-independent European countries needed to attract foreign investment but lacked experience in property rights and a strong rule of law. Accordingly, one of the original and fundamental justifications for the creation of the ISDS mechanisms was to attract foreign direct investment by providing investors with confidence of an objective legal forum, devoid of the problems of underdeveloped legal systems. Unfortunately, however, in recent years a number of serious problems have arisen with the way ISDS provisions are being applied. International ISDS arbitration is now characterised by substantial costs, substantial delays, lack of certainty, lack of appeal rights, a perception of a lack of impartiality, and abuse of process.

In the decade between 1992 and 2002, the cumulative number of cases under ISDS provisions grew from nought to almost 100. In the following decade to 2012, the number grew to over 500. Of the current known ISDS cases, less than half—244—have been concluded. An ISDS case can typically take between five and 10 years to resolve and the OECD estimates an average cost of $8 million per case, with some cases costing up to $30 million. The panel of arbitrators tend to be largely from the United States or the EU. Professionals in the industry can oscillate between representing a claimant and being a judicial member on a different case involving the same claimant or industry. This practice raises at least an impression of a lack of impartiality. In a robust, developed legal system, justice must both be done and be seen to be done.

The ISDS system has also been used by multinational companies to introduce regulatory chill on sovereign countries. A classic example is the current tobacco plain packaging legislation case against Australia. This expensive and lengthy case, initiated by Philip Morris Asia, has resulted in other countries deferring the implementation of similar health and life saving legislation. These problems with the ISDS system have resulted in governments, organisations and individuals around the world calling for substantial reforms. As just one example, United Nations Conference on Trade and Development, or UNCTAD, has stated:

Challenges posed by today's investor-state dispute settlement regime create momentum for its reform.

... ... ...

Given the numerous challenges arising from the current ISDS regime, it is timely for States to assess the current system, weigh options for reform, and then decide upon the most appropriate route. Moreover, the underlying economic rationale no longer stacks up. ISDS provisions could be justified by market failure associated with opportunistic and discriminatory behaviour of host governments. However, the potential of expropriation risk is largely resolved in the marketplace by reputational effects. That is, governments which tend to seek foreign direct investment on an ongoing basis will be significantly harmed by any expropriation type behaviour, even on a single account. Studies have also found that foreign firms tend to enjoy
regulatory advantages, rather than bias, as compared with their domestic equivalents. In Australia, the Productivity Commission has concluded that there is no available evidence to suggest that ISDS provisions have a significant impact on foreign investment flows.

As noted in submissions to the Senate Foreign Affairs, Defence and Trade Legislation Committee inquiry into this bill, there has been an increase in international concern about the operation of ISDS provisions, accompanied by calls for reform. The United Nations Conference on Trade and Development, UNCTAD, has advocated for a roadmap for ISDS reform. The European Commission is currently analysing the results of almost 150,000 submissions to its public consultations on the ISDS provisions in the Transatlantic Trade and Investment Partnership, the TTIP. Governments and NGOs in Germany, France, Indonesia and South Africa have all expressed their lack of support for future ISDS provisions in multilateral agreements.

In 2010 the Productivity Commission recommended that Australian governments avoid including ISDS provisions in international agreements. In 2011 the former Labor government announced it would not provide foreign investors with greater legal rights than those available to domestic businesses and therefore would not agree to the inclusion of ISDS provisions in new trade and investment treaties. This policy change did not prevent Australia from progressing bilateral and plurilateral treaty negotiations. Indeed, under this policy Australia concluded negotiations on a free trade agreement with Malaysia without the inclusion of ISDS provisions.

It is unfortunate that the Abbott government is either ignorant of the legitimate concerns about ISDS provisions or in its rush to garner three free-trade-agreement trophies this year is just rolling over when Australia's negotiating partners seek to include such provisions in trade agreements. In the South Korea-Australia free trade agreement the coalition government agreed to South Korea's request for ISDS provisions. Labor have indicated that when we are returned to government we will seek to renegotiate this aspect of the South Korea-Australia free trade agreement. Unlike the coalition government, Labor have a clear and responsible policy on ISDS. Labor disagree with the coalition's case-by-case approach to ISDS.

However, Labor is a party of government. In our system of government the state is divided into the executive, legislative and judicial branches. Under this system it is the executive which has responsibility for negotiating and signing international treaties, including trade and investment treaties. Under our system the executive negotiates and enters treaties, and it is the parliament's role to scrutinise these agreements to ensure the executive government is accountable to the public and to consider any enabling legislation. We believe that this balance of responsibility should be maintained. The legislature should not seek to negotiate treaties, revise the text of treaties or set the negotiating mandate of the government. This would undermine the ability of the government of the day to make reforms in the national interest through the executive's treaty-making power.

Over the years, progressive Labor governments have entered international treaties to implement important reforms in areas ranging from the economy to the environment, from industrial relations to eliminating discrimination. I have already given the example of the Whitlam government's ratification of the World Heritage Convention. Let me give some more examples. Some of the most significant protections for human rights in Australia rely on international conventions and treaties which the Whitlam government ratified, including the

The Keating Labor government ratified the ILO Termination of Employment Convention in 1993. This provided Labor with the constitutional basis to pass legislation protecting workers against unfair dismissal. The Industrial Relations Reform Act 1993 extended unfair dismissal protections to millions of federal award and award-free employees who had never been protected against unfair sackings. The use of the ILO convention to provide the constitutional basis for this legislation was opposed by the Liberal Party. On the precedent that would be created by the Trade and Foreign Investment (Protecting the Public Interest) Bill, a coalition dominated Senate could have sought to block ratification of that ILO convention.

The Hawke-Keating government ratified the United Nations Framework Convention on Climate Change and the Rudd government ratified the Kyoto protocol. These agreements established the basis for international cooperation on tackling climate change. The executive's treaty-making power has also been used to protect against racial, sexual and religious discrimination, to provide protections for refugees and to promote and protect Indigenous populations.

In conclusion, as a progressive party of government, Labor accepts the responsibilities of the executive government of the day to negotiate and enter treaties in the national interest. In addition to the mechanisms of accountability to the parliament, governments are ultimately accountable to the people through the ballot box for the way they exercise their executive power. Labor does not support this bill, because it would constrain the executive powers of the government of the day, alter longstanding and well settled constitutional arrangements and undermine the ability of elected federal governments to make progressive reforms by entering international treaties.

Senator SIEWERT (Western Australia—Australian Greens Whip) (10:59): I rise to contribute to the debate on the Trade and Foreign Investment (Protecting the Public Interest) Bill 2014, a very sensible bill that Senator Whish-Wilson has introduced as a private senator's bill. The purpose of the bill is to prevent the Commonwealth entering into an agreement with one or more foreign countries if the agreement includes investor-state dispute settlement provisions.

The concern that I have just heard expressed by the Labor Party I think in part seeks to muddy the waters by saying the bill restricts the ability of governments to enter into treaties. Senator Whish-Wilson has had legal advice to suggest that it does not, but he has also indicated on occasion that if there are issues with some of the wording of it, to make it clear we could consider amendments. It is interesting too that, despite speaking strongly about the issues around investor-state dispute settlement provisions, Senator McEwen for the Labor Party did seem to think it was important that the Labor Party has just supported and voted with the government on the KAFTA, which sets a bad precedent for negotiations on the TPP. If they so strongly believed that these issues were of concern, they should have voted against
it and forced a renegotiation. As I said, it does indicate a bad precedent for the TPP, which does include US corporations, who are very litigious.

We should be sending a message now that these forms of provisions are not acceptable. They may have been useful in the past, but the world has significantly changed, and our legislation needs to move on so that we ensure that investor-state dispute settlement provisions do not give foreign corporations excessive powers in this country. Free trade agreements are no longer simply concerned with the exchange of goods and services. The inclusion of foreign investment ensures a much more complex system, which does not necessarily make for a better one.

The Greens are very concerned about the government's proposals to include investor-state dispute settlement provisions in future free trade agreements, which could allow foreign companies to sue the government if they consider their business interests to be impinged on by policy or legislation decisions of the government. This is big business insinuating itself into the decision making of a state. It is crony capitalism at its extreme. The Australian Greens Trade and Foreign Investment (Protecting the Public Interest) Bill 2014 seeks to ban the inclusion of investor-state dispute settlement provisions in future trade agreements in order to protect the public interest. Sovereign risk is part of the consideration for companies who want to invest in foreign countries. Risk is part of doing business. Investor-state dispute settlement provisions allow foreign corporations to sue governments if they feel regulations and policies impact on profits. They give corporations a lot of power and there is no proof that increased investment flows. There is no right of appeal in the arbitration process and there is very little transparency with what goes on. Labor refused to sign up to ISDS when they were in government, but they still voted through the Korean-Australian deal, which had ISDS in it. We think they did not want to be seen to be blocking trade deals when this has significant implications for decision making in this country.

The government will not acknowledge or do not understand the risks, because what they want is to get the trade deals done. However, I must note that Mr Howard refused to allow ISDS clauses in the Australia-US FTA. If we get ISDS in the Trans-Pacific Partnership Agreement, US companies will have the right to sue the Australian government. US corporations are the biggest users of ISDSs, and we expect cases against the government would increase if we were to sign the TPP. ISDS applies to state and local governments as well and has significant implications across Australia.

We oppose ISDS provisions for a number of important reasons. Litigation using ISDS has proliferated in recent times and this is likely to increase in the future. You can expect that it will. If you put it in the agreement, you can expect that corporations, particularly US corporations, will use it. ISDS clauses have outlived their usefulness and are now under review in a number of countries and in a number of trade negotiations, including 10 countries in Latin America, in South Africa, in India, in Indonesia and in the European Union. After decades of public debate, it is time to rethink their inclusion in modern trade agreements, because circumstances have significantly changed from the times that Senator McEwen was talking about. It is no longer used for those purposes. The purposes these provisions are used for are to allow multinational corporations to take control, essentially, of key policy decisions or to oppose policy decisions that countries make. It is unacceptable.
There is no evidence that ISDS clauses have any economic benefits for trade or investment. However, the risks of using them are clear and supported by evidence and numerous case studies, a couple of which I will go into shortly. Trade deals are changing from historic market-access trade-driven considerations to facilitating and protecting foreign investment through limits placed on the ability of the government to develop domestic laws and policies in a wide range of areas, including public health, patents on medicine, the environment, food labelling, internet use and privacy, and local media content. This makes the inclusion of ISDS provisions more dangerous.

Although current ISDS litigation by the Philip Morris tobacco company against Australia's plain-packaging legislation is globally significant, we have only escaped the danger of more cases because previous Labor and Liberal governments have only included ISDS in trade agreements with developing countries, which do not have investments in Australia, and have not included them in the Australia-US Free Trade Agreement. US corporations are the most frequent users of ISDS. The current Trans-Pacific Partnership Agreement, the TPP, has proposals for ISDS in the ongoing negotiations, which would therefore expose Australia to a much higher risk of litigation. There was strong evidence presented to the inquiry that ISDS safeguard clauses can and have been reinterpreted and overturned through the arbitration process. Australia has no oversight of control over the inclusion of ISDS in trade negotiations, or other aspects for that matter, of the secretive trade talks. Legislation is the simplest way to remove the risk of their use into the future.

The Australian Greens trade and foreign investment bill seeks to ban the inclusion of ISDS in future trade agreements in order to protect the public interest. Why should we be beholden to foreign investors' vested interests to the detriment of our own citizens? It is a very, very real risk. I am particularly concerned about the impact of ISDS provisions on Australian agriculture and the health and wellbeing of Australians. I urge farmers to take a stronger interest in the inclusion of these provisions, because I think it will lead to adverse impacts on farmers in this country. I urge them and their representative organisations to pay attention to these provisions.

The inclusion of ISDS provisions is a potentially detrimental policy for Australian agriculture. There are already examples of Monsanto suing foreign governments for decisions they see as not being in Monsanto's best interests. We can look at the example of Monsanto and Guatemala. In a landmark decision on 4 September, following intense pressure by Indigenous people, trade unions, farmers' organisations and others, the Guatemalan judiciary ruled to suspend the controversial plant variety protection law, commonly referred to as Monsanto law, because of the multinational biotech company's involvement in it. If passed, the Monsanto law would have given exclusivity on patented seeds to transnational companies, but opponents claim that the new law violated the Guatemalan constitution and the people's rights to traditional cultivation of their land in their ancestral territories.

The law offers producers of transgenic seeds—often corporate companies like Monsanto—strict property rights in the event of possession or exchange of original or harvested seeds of protected varieties without the breeder's authorisation. A breeder's rights extend to varieties, essentially derived from the protected variety. Thus a hybrid of a protected or unprotected seed belongs to the protected seeds producers. What are the implications of this? For one, if a Guatemalan farmer who had been tending his or her land for generations violates the law,
wittingly or unwittingly, he or she could face a prison term of one to four years and fines of US$130 to US$1,300, which is very hefty for farmers in that country, who are frequently living on the brink of poverty.

The new legislation would open up the market for genetically modified seeds, which would threaten or displace natural seeds and end their diversity. This is an extremely dangerous proposition, because it threatens food security by introducing a vicious cycle to Guatemalan farmers. With the introduction of modified seeds, it would be hard, if not impossible, to revert back to using Indigenous seeds, making Guatemalan farmers dependent upon foreign seeds—expensive foreign seeds. By law, once genetically modified seeds are invariably mixed with natural seeds, the end result would be legally owned by the property rights holder—that is, guess who? Monsanto.

A publication of the Rural Studies Collective warned about the consequences of this Monsanto law, describing how the law 'promotes privatisation and monopolies over seeds, endangering food sovereignty, especially that of indigenous peoples'; and that 'Guatemala's biodiversity will fall under the control of domestic and foreign companies.' That is right—handing over that biodiversity to companies to own. Opponents claim that, if passed, Monsanto's law could make criminals of already repressed small farmers who are just trying to cultivate crops for their own consumption, which they have been doing for generations. The law would have prevented Guatemalans from growing and harvesting anything that originates from natural seeds, and farmers could be breaking the law if these seeds had been mixed with patented seeds from other crops as a result of pollination or winds, unless they had a licence for the patented seed from a transnational corporation like Monsanto.

In a statement issued in July, the National Alliance for Biodiversity explained:
According to this law, the rights of plant breeders are superior to the rights of peoples to freely use seeds. It's a direct attack on the traditional knowledge, biodiversity, life, culture, rural economy and worldview of Peoples, and food sovereignty.

Senator Scullion: Hear! Hear!

Senator SIEWERT: I am glad that somebody agrees that that is what Monsanto's law could result in and understands the issue.

Beyond the domestic repercussions of this ruling, it could also affect Guatemala's inclusion in the Central American free trade agreement. The free trade agreement between the United States and a group of smaller developing countries includes Guatemala. The plant variety protection law originated back in 2004 when Guatemala signed up to the agreement, and agreeing to Monsanto's law is part of the agreement. Should Guatemala or another nation have to listen to the demands of the US by honouring the free trade agreement laws? Not according to the Natural Society, who say:

Big Ag and Big Biotech would severely threaten international food sovereignty. More than 40 countries have already realized this possibility, banning GMO crops.

There are reports that Monsanto intends to sue the Guatemalan government under the ISDS provisions following this decision. We do not want this to happen in Australia. You only have to look at what could happen in Australia, where we have farmers who wish to grow organic crops; we have farmers who do not wish to grow genetically modified organisms. This law
could threaten our ability to make laws to protect farmers from GMO crops, and the Steve Marsh case from Western Australia is a very good example.

You can easily foresee a situation where Monsanto brings a case against Australia if we bring in laws that protect farmers such as Steve Marsh from contamination or, for example, put in place strict liability laws or labelling laws around genetically modified organisms so that people know what food they are eating and can make a choice between genetically modified organisms and organic food. These ISDS provisions could enable US corporations to bring action against not only Australia for some of those other circumstances and impact on growers but also consumers who wish to make decisions about what they eat. This potentially could extend to taking that control away.

I would like to quickly look at food security in the south-west of WA. In the south-west of WA we are being significantly impacted on by climate change already. People are having to make choices about what they wish to grow, and they are looking at those markets which are clean and green. They are looking at the markets that do not want to be consuming genetically modified organisms. They want to capitalise on those markets. So they are starting to make decisions about what they grow and in what circumstances. Again, these particular provisions could significantly impact on their choices about what they grow.

ISDS provisions could also limit farmers' rights with regard to stopping fracking on their land. For example, there are disputes in Canada where investors are challenging measures that were introduced on environmental grounds. One, a claim by Lone Pine Resources, arose out of Quebec's moratorium on hydraulic fracturing or fracking that led to the revocation of the company's gas exploration permits. The ISDS litigation concerning mining has steadily increased over the past decade. OceanaGold, an Australian company, currently has a subsidiary that is suing the El Salvadorian government through ISDS provisions for more than $300 million, almost half the government's annual budget, over the government's refusal to grant a goldmining permit. Do we want that happening in this country?

This bill should be passed to protect the interests of Australian farmers and the Australian community and to make sure we have the ability to make decisions that are in this country's, our people's, our farmers' and our consumers' best interests. Going down the path, in this modern age, of supporting ISDS provisions facilitates global companies, multinational companies, taking over the decision making of the country. If they can bring litigation against environmental standards, provisions that protect our food sovereignty and our decision making on where we choose to mine, we are handing over decision making to unelected, transnational, multinational companies. We do not believe Australians want that. We believe they want those decisions to remain with Australia. We think this is a sensible road to take. We urge the Senate to pass this legislation.

Senator RUSTON (South Australia—Deputy Government Whip in the Senate) (11:18): I, too, rise to speak on the Trade and Foreign Investment (Protecting the Public Interest) Bill 2014 brought into this place by the Australian Greens. I understand the purpose of this bill is to prevent the Commonwealth from entering into an agreement with one or more foreign countries that includes investor-state dispute settlement provisions.

It is really quite interesting and refreshing, having listened to the contributions of a couple of those who have gone before me, to hear the Australian Greens finally acknowledge the concept of Australian sovereignty. I must say that many of the policies and legislative
instruments that they have sought to introduce into this place were, in my opinion, completely contrary to protecting Australia's sovereignty. So I will just put on the record that it is very pleasing that, despite the probable ramifications of what they are trying to do here and their single-mindedness without due consideration for the other side of this particular argument and the debate, at last they realise that Australian sovereignty is important. It is also interesting that we have a situation where we have the Australian Greens arguing for less regulation and protection for Australian businesses, not more. That has certainly surprised me in listening to the debate so far.

In looking at the investor-state dispute settlement mechanism, my understanding of it in layman's terms is that this particular provision in international agreements gives the right to both parties to an agreement to have built into that agreement a mechanism by which disputes can be resolved. You would have to wonder why on earth we would be seeking not to put this protection in place for Australian investors? We have to remember very clearly that this is a two-way street. It is not as though we are suggesting with this mechanism that only international investors will be able to seek remedy for something that has occurred within Australia. We are also putting a provision into this particular mechanism to enable Australian investors in overseas markets to be able to seek remedy for wrongdoing in a particular marketplace.

The second very important component is that this is not about frivolous activity. This is not about frivolous litigation. There is no way in the world that any jurisdiction can bring a frivolous claim against either of the parties to an agreement. To suggest that we are going to have all these frivolous claims and that multinational companies are going to steal Australian sovereignty is an extreme view of what has been put in place as a protective mechanism for Australian investors. To suggest that Australian sovereignty will end up going out the window is somewhat of an overreach by those who are supporting this bill. Australia has had ISDS measures in place over a number of years. In fact, I believe there have been ISDS provisions in a number of the agreements that have been negotiated on behalf of Australian producers wanting to export overseas, and over that period of time, to my understanding, there has only been one case brought against Australia. That was brought by Philip Morris Asia in relation to plain packaging legislation under the 1993 agreement between the government of Australia and the government of Hong Kong for the promotion and protection of investments. As far as I am aware, that is the first investor-state dispute that has been brought against Australia.

When Australia went to plain packaging, Philip Morris was arguing that Australia's measures constituted an expropriation of Australia's investments in breach of article (6) of the Hong Kong agreement and that escalated the matter and triggered the dispute mechanism. Obviously, Australia has rejected the claims that have been made by Philip Morris Australia in relation to this matter and so far the constitutional challenges that have been taken against plain packaging have been refused. I would think that after the experience of 30 years and a multitude of trading arrangements, which Australia has entered into with people around the world, to have had only one challenge would suggest a fine track record for these arrangements and suggests there is no problem with these dispute mechanisms challenging Australia's sovereignty. Had there been several cases in which Australia had been found to be liable and had to pay remedy over 30 years, then you would have to look at this matter more seriously. But the fact that we have had these arrangements in place for 30 years and we have
had one case brought against us, has not been found against us, does beg the question: why is it that we have this particular bill in the house at the moment?

It is also worthwhile mentioning in this space that, when negotiating FTAs or multi or bilateral agreements, it is very important to look at the circumstances that surround each and every one of these agreements. Australia does not have a blanket policy to include ISDS provisions in all of our agreements. In fact, we are very careful to make sure that the agreements that we enter into put specific provisions that are to the benefit of Australia in each and every one of them. Each time we make an agreement with a foreign nation, conditions are often very different and to come up with a blanket suggestion that we should allow Australia to enter into an agreement that leaves our investors exposed I think would be irresponsible. There are obviously situations where these particular provisions are considered not necessarily in Australia's best interests and so they are not included in the legislation. It really does worry me that we are debating this sort of legislation—it is scaremongering and all we are doing is scaring the horses—for what benefit?

An ISDS is not a new concept. So far 28 economies through four free trade agreements and 21 bilateral investment treaties over the past 25 years have had this provision, but modern ISDS provisions have very specific carveouts and safeguards to protect our ability to govern and regulate in our national interest. Those are the two words that we should underline when discussing anything about free trade or anything about international agreements—'national interest'. We need to ask: what is in our national interest? We operate in a world of risk—there is absolutely no doubt about that—and if we want to trade with international partners and promote our manufacturers, primary producers and service providers, who wish to operate in an international marketplace, then we have to realise there is a level of risk associated with that. It is very important that in going into these marketplaces that we have in place a number of provisions to protect our primary producers, service providers, manufacturers and anybody else who wishes to export.

One thing that we must never lose sight of is that Australia is an exporting nation. Australia cannot exist on its own markets; we have to export. That is the nature of Australia. We cannot support the population level we would need to sell to ourselves; we are never going to get rich selling to ourselves. First and foremost, any of our trade agreements and arrangements with overseas countries must be in the national interest and we have to ensure that our exporting organisations are given the maximum opportunity to succeed overseas.

I am quite happy to concede that there is always an element of risk when you go offshore due to the intricacies of foreign jurisdictions, but to end up in a situation where we seek to take away a very important protection for Australian investors overseas without considering the exposure—

Senator Whish-Wilson: ISDS has nothing to do with exports.

Senator RUSTON: that Australian producers have to the international market. I cannot say strongly enough that our export markets are so important that if we do not protect Australian investors and make sure we have those provisions in place—

Senator Whish-Wilson interjecting—

Senator RUSTON: we are way more exposed than other countries that are not so reliant on the export market. I think we need to look at the bigger picture and be absolutely and
totally focused on what is in Australia's national interest, not in the interest of scaremongering and carrying on.

_Senator Whish-Wilson interjecting—_

_Senator RUSTON:_ I would like the senator opposite who continues to interject to stand up and tell me about the myriad cases that have been brought against Australia in the last 25 years. As I mentioned a minute ago, there is but one, and as yet it has not been found against Australia. Really, to be carrying on like this, scaremongering and putting at risk through this legislation all of Australia's really important exporters is, I think, not just frivolous but extremely dangerous. The Greens should be asked to account for this.

The most important thing is to make sure that we protect Australia. Looking at the myriad free trade agreements currently being negotiated, particularly the two that have been brought to conclusion in the last few months—thanks to the extraordinary work of Minister Robb and his counterparts—and the benefit that those arrangements will bring to Australian producers, whilst you can measure it simply in terms of the reduction of the tariffs and trade barriers that Australian exporters now receive, you can also see that the opportunity for Australia is absolutely huge.

Just look at the KAFTA, the free trade agreement with Korea. In the area of beef, that will eliminate the 40 per cent tariff on beef and the 18 per cent tariff on by-products over the next 15 years. There is the abolition of the three per cent tariff on raw sugar. In the case of wheat, the 1.8 per cent tariff on wheat and the eight per cent tariff on wheat gluten will be eliminated. That may not seem a lot but, when you consider the volatility of the world wheat market and the massive impact that minor fluctuations in price can have on the world wheat market, it is really important that Australian farmers particularly get the opportunity to operate on a level playing field.

The dairy industry has historically faced very high tariffs, particularly on things like cheese and butter. They will be eliminated. Then there is wine. I come from a wine area in South Australia and I am sure my South Australian colleagues will have to concede that it is just so important with the current situation in the Australian wine industry that we create new export markets for our wine to put the Australian wine industry back where it used to be, at the forefront of international wine sales. At the moment, the industry is having a pretty tough time. Our grape growers and our winemakers are suffering from notoriously low prices, notwithstanding the fact that the Australian dollar has not helped them terribly much. We must give any little extra incentive possible to our wine exporters so that they can enter markets competitively, against some pretty stiff competition from countries like Chile. Chile has already been granted a tariff-free status that Australia has not been able to negotiate, so it is extraordinarily important that, in all of these agreements we are putting in place, we do the absolute very best that we can for our Australian farmers so that they are able to continue to grow their industry. The nature of the Australian economy means that we will never, ever be able to survive just by selling to ourselves. We must export, so these agreements are tremendously important.

The Japanese free trade agreement is equally important to Australian businesses, particularly Australian producers. We hear a lot about Australia having the opportunity to be the food bowl of Asia and the aspirations of many of our near neighbours to consume Australian produce, but, at the end of the day, there will always be a point at which the price
has a bearing. Our ability to take advantage of the opportunities that are offered to Australia to become a significant supplier of food to our Asian neighbours comes about through our ability to negotiate agreements with these countries so that Australian exporters are in a position to export. Equally, Australian investors need to have the opportunity for protection when they are investing in operations overseas.

I look at this bill and think that we really need to be very, very clear as to what the net outcome is. The Greens have stood in here today and made an argument for some of the potential downsides of ISDS. I do not think anybody would disagree that a mechanism by which somebody can instigate action against another country is not necessarily favourable. However, what about companies in Australia who seek to invest overseas, particularly in countries whose legal regimes and legislative environments are not as robust as ours in Australia? What about them? Weigh up the risk borne by Australia against the risk that is borne by our investors who seek to go overseas and balance them out.

There is no possibility whatsoever for claims to be frivolous—and I think that is the bottom line. You cannot make a frivolous claim against another country under these provisions. If you cannot take frivolous claims and Australia has a very strong legislative and regulatory environment, the risk to Australia is so small compared to the massive risk that our investors would otherwise face in some of the markets they may seek to invest in. You balance it out and you end up with a net situation where Australia is by far the greater beneficiary of these provisions. I think that is where you need to start.

We cannot take all risk out of everything. In my opinion, we have gone too far in this country in trying to mitigate all risk. The problem with mitigating all risk is the fact that it costs a lot of money. This is not only in relation to ISDS arrangements; across the board, the fact that we have attempted to take all risk out of everything that we do is burdening this country with an unnecessary regulatory burden and bill. Half the reason that we are standing here with this budget crisis that we have at the moment is that the previous government legislated a whole heap of regulations to try and protect people from themselves. The cold hard facts of the matter are that as long as you continue to put more and more regulatory burden into the marketplace the more it is going to cost, and our businesses in Australia have to bear that burden.

To be sitting here today and suggesting that we are going to be able to take all risk out of the marketplace, for Australian sovereignty, is terribly short-sighted in the sense that we are trying to protect our Australian businesses largely from activities that could occur in foreign jurisdictions. There is very little risk here of foreign jurisdictions having any capacity to cause too much grief in Australia. I suggest that the piece of legislation that we have before us, whilst it may well have the best of intentions, is extraordinarily misguided.

**Senator GALLACHER** (South Australia) (11:38): I too rise to make a contribution in this debate on the Trade and Foreign Investment (Protecting the Public Interest) Bill 2014. I think that our earlier speakers have indicated our position of opposition to this bill. I would have known two parts or nothing about ISDS about four months ago, but having moved from the Rural and Regional Affairs and Transport Committee and other committees onto the Foreign Affairs, Defence and Trade Committee I now, happily, know a little bit about it.

ISDS has been the subject of a couple of inquiries, and it is instructive to put a couple of lines on the record setting out some of the evidence that has been gathered by both the
legislation committee and the references committee of the Senate Standing Committees on Foreign Affairs, Defence and Trade. The Department of Foreign Affairs and Trade provides the following definition of ISDS provisions on its website:

ISDS provisions grant foreign investors the right to access an international tribunal if they believe actions taken by a host government are in breach of commitments made in a Free Trade Agreement … or an investment treaty, thus providing additional protections for investors.

I think the line that has been taken here by the Greens is that only foreign investors in Australia need protection. Senator Ruston highlighted the fact that we are a trading nation and history shows that we have probably taken more actions against countries than have been taken against Australia, and the Philip Morris case is the one that comes to mind.

It is instructive to also put on the record that Australia has negotiated ISDS provisions in free trade agreements signed over the past three decades. Currently Australia has ISDS provisions in four free trade agreements: the Australia-Chile Free Trade Agreement, the Singapore-Australia Free Trade Agreement, the Thailand-Australia Free Trade Agreement and the ASEAN-Australia-New Zealand Free Trade Agreement. The Korea-Australia Free Trade Agreement, which has been signed but has not yet entered into force, also includes an ISDS provision. Australia currently has ISDS provisions in 21 bilateral investment treaties with Argentina, China, the Czech Republic, Egypt, Hong Kong, Hungary, India, Indonesia, Laos, Lithuania, Mexico, Pakistan, Papua New Guinea, Peru, the Philippines, Poland, Romania, Sri Lanka, Turkey, Uruguay and Vietnam.

It is instructive to cite a couple more lines with respect to this matter:

The Senate Foreign Affairs, Defence and Trade References Committee conducted an inquiry into the Australia-United States (US) Free Trade Agreement in 2003. At the time, the committee noted that the inclusion of ISDS provisions in agreements with developing countries was a new development. These provisions had primarily been included in agreements to protect Australian investments and property from expropriation by governments in those countries where the rule of law was weak.

This is a very pertinent issue. We had many submissions to the references inquiry into the KAFTA, which highlighted issues from intellectual property to the sovereign right of governments to legislate with respect to health and the rest of it; very well-qualified people indicated concerns with ISDS and the use of these ISDS provisions by global corporations, so to speak, in the case of Philip Morris. When listening to those submissions, I think it is instructive to note that these are provisions that are used after there is exhaustion of the rule of law in the country or countries from which we are seeking a remedy. In Korea, there is a legal system that is recognisable and works; in Australia, there is a legal system that is recognisable and works.

Very interestingly, evidence was put that the Koreans had simply said, 'We will have ISDS or no treaty,' which, given that there is a rule of law in both countries, would seem to have been a tactical position that they had taken. To be fair, they probably had us over a barrel: if we do not get into the Korean market with our agricultural exports, primarily beef, by 1 January, we will be suffering a further competitive disadvantage with the American growers. So, in its wisdom, the government made a decision to include the ISDS. That seemed to provoke a reaction, if you like, and maybe this bill is a reaction to that circumstance.

The position of the opposition, though, is that we were not prepared to delay the KAFTA in order to negotiate amendments to the ISDS mechanism. That would have been unproductive,
so to speak. The committee recognised that we already had, as I laid out before, a number of ISDS provisions within quite a number of bilateral and free trade agreements. I think it is also instructive to put on the record that, if the key objective of such a negotiation should be the clarification of our shared understanding of the word 'expropriation', then we get in behind the ISDS provision to the actual detail. The committee noted that other free trade agreements, such as the Canada-Korea FTA, have used narrower definitions of where the term 'expropriation' applies. In the view of the committee, a narrower definition of expropriation which limits the scope of potential liability would provide additional predictability and certainty.

What is very clear to me in my short time on the Foreign Affairs, Defence and Trade Committee is that this is a very complex area. This is a very, very complex subject. ISDS may well provide us with certainty when we are investing in countries where there is less of a rule of law than in Australia. It may provide that balance that allows people to invest in countries where the rule of law is not as visible as it is in Australia. The reverse position is that we are pretty open and honest about our legal system, as Philip Morris found. If you want to challenge the system, then the system will play its part and a decision will be handed down. To go off then and use a Hong Kong free trade agreement to advance concerns is an entitlement and a right. Philip Morris is a global corporation and it has basically done what global corporations do in trying to protect their shareholders' position. Very clearly, it seems to me that ISDS is a horses-for-courses argument. In some cases it probably be appropriate, as we have determined over the last three decades. Into the future it probably becomes less valuable in the view of the opposition.

It is worthwhile noting the recommendation of the Productivity Commission on ISDS:
That Australian Governments should seek to avoid the inclusion of investor-state dispute settlement provisions in BRTAs that grant foreign investors in Australia substantive or procedural rights greater than those enjoyed by Australian investors.

So, clearly, it is not only experts or people making submissions saying that ISDS is out. We also have the Productivity Commission making a recommendation. The job of the trade minister gets harder and harder. He has to negotiate a trade agreement with a country in the interests of Australia's exporters, and he is getting very competitive and conflicting advice from all quarters.

The committee recognised that the Australian government had indicated it will consider ISDS mechanisms in future trade agreement on a case-by-case basis, which is basically a replication of the last 30 years. In light of this position, the committee considered it vital that the Australian government ensure there are sufficient safeguards within those future ISDS mechanisms to protect the ability of the Australian government to conduct its ordinary processes without the apprehension that investors may instigate compensation claims if investments are negatively affected. So, we have this very complex situation. Very clearly, the committee would recommend that the Australian government should not agree to investor-state dispute settlement mechanisms in future free trade agreements. The reason being is that we have had a history, for over 30 years, of some in, some out, some working well, some not so well, and then we had the Philip Morris position.

Along with a number of other people I have a view, which has come through evidence to the committee, that ISDS is probably not the way to go forward. With the existence of a good
legal system in Korea and a good legal system in Australia, ISDS does not appear to have merit to be included. Having said that, free trade agreements are negotiated differently in different countries. I was told last night that the Japan free trade agreement needs to go to the lower house of the Japanese parliament for agreement and that no trade agreements can be made without that assent. We do know that the Korean free trade agreement is currently before the Korean parliament, and they need to sign off on it. Clearly, that is not the case in Australia where only the enabling legislation goes through the respective parliaments. Here we have a situation where we can all be on the same wavelength but on different paths, and I think that is what has happened in this debate.

The point where we get to agreement is not clear. It is the view of quite a number of well-educated, skilled research people that ISDS provisions are going to be detrimental to Australia in the future. It is the attitude of other people that they have worked well for three decades, and we have had only one case in three decades. It protects Australia's investments overseas. We are trading nation and the more we can gain access to markets the better. It is very clear that different parliaments deal with it in different ways. It is also clear that, at the end of the day, there is a negotiation process where someone has to bite the bullet, so to speak, and make a decision. For better or worse, in the KAFTA agreement this government has done that. We have placed on the record our position in respect of that. There you have a broad-brush approach to the situation we find ourselves in.

The European Union has a view on ISDS. The Americans have a view on ISDS. Someone argued that the Americans are using ISDS as a mechanism for their global corporations to further enhance their primacy in the market and their leverage. I am not across that. I hear that view, but I do not subscribe to it particularly—I see no evidence of that. But investor-state dispute settlement, or ISDS, is clearly a topic that is going to be around for a fair while. It will not be resolved in the short term—and, importantly, it will not be resolved by the passage of this bill. This bill could in fact have a detrimental effect on negotiations which are in the best interests of Australian trade.

I will restate the argument. These sorts of trade negotiations have been going on for the last thirty years. There are a large number of countries involved, and trade access to those countries is critical to Australia's economic welfare. Many thousands of mining industry workers, mining companies, agricultural workers, pastoralists and so on rely very heavily on agreements like the Korean free trade agreement.

It is worth noting that even a country as prosperous as Korea, with an average income of over US$30,000 per annum and with very healthy exports of manufactured goods, protects its beef production to the tune of 40 per cent. My question to DFAT was, 'Can you explain to me why a country as wealthy as South Korea taxes its citizens 40 per cent on their purchases of protein?' I asked the Japanese ambassador the same thing. It appears that they protect those industries not for economic reasons but for cultural reasons. Their rural landholders and their rural agricultural lobby groups are immensely strong. It makes no economic sense to charge their citizens 40 per cent extra for protein.

Assuming the Korean parliament agrees to the free trade agreement and we get to 1 January 2015 with the agreement in place, then at least our beef exporters will not be at an even more substantial disadvantage in the Korean market than they currently are. But, as I said, for 75 per cent of our trade with Korea there are no tariffs either way. It is iron ore, it is...
concentrates, it is lead, it is zinc—it is stuff they need and, as we speak, there are no barriers to any of that coming and going. The barriers have primarily been in the agricultural sector because the Koreans have a view—unlike Australia—that they need to protect that sector.

Delaying the agreement because of the ISDS provisions would be economically foolish. We are to pass a bill like this, which would have that effect—at least in intent—it would put us at risk of not having the Korean free trade agreement operating on 1 January 2015. The Japan free trade agreement starts on 1 April. I thought that was quite interesting—April Fools' Day being the date of commencement of a free trade agreement. There would be a similar effect on that agreement if we were to take these ISDS provisions off the table. The Koreans have clearly indicated that it is non-negotiable. They wanted the ISDS provisions.

The opposition remains opposed to ISDS clauses. We would look to further clarify the definition of 'expropriation', as other nations have done, but we would otherwise proceed in an orderly manner to pursue Australia's trade interests. I do not have any particular view of Minister Robb other than that he has a very complex and difficult job negotiating these outcomes—as all other trade ministers who have represented the Australian government have had. It is an extremely complex field. Our ministers do, in the main, the best they can in the context of the matters that are up for negotiation at the table. ISDS provisions remain under extreme scrutiny by this opposition, but they should not prevent these agreements from proceeding.

Senator DI NATALE (Victoria) (11:57): The Trade and Foreign Investment (Protecting the Public Interest) Bill 2014 was introduced by Senator Whish-Wilson. Senator Whish-Wilson is leading the charge in informing the Australian community about, and protecting the Australian community from, the impact of secret trade deals negotiated without the scrutiny of the Australian parliament. This bill goes to the heart of what the role of government should be and what the role of corporations should be in our community.

The language in this area is very dense and very technical. The term 'ISDS' is used deliberately to ensure that most people do not understand its implications. It is actually very simple. It is simply about whether corporations should have the right to sue governments over the decisions they make. Should a corporation have the right to sue a government if that government makes a decision that affects the corporation's bottom line? That is what this is about. It is very straightforward—and it is a fundamental question. What is the role of government? Should corporations be able to penalise governments for making laws that are in the public interest but which impact on the bottom line of those corporations? It goes straight to the heart of what the role of government is. I take the Churchillian view that democracy is the worst form of government—except for all the others. I would much rather that democratically elected governments made decisions on behalf of the community rather than corporations, whose primary responsibility is to make a profit and to ensure that shareholders get a return. That is effectively what is at stake here.

Of course, when you get into these debates and you get into these polar corners, you end up with people who support trade deals and people who do not. I am not anti trade. I think international trade is a good thing. I think international trade is a tool, if used properly, that can lift people out of poverty. International trade and foreign aid together are very, very powerful tools to lift the living standards of developing countries and developed countries.
But it cannot just be free trade; it also has to be fair trade. Those two things need to go together.

Again, reducing tariffs can be a good thing. In fact, it has been a good thing here in Australia, across many industries, enabling us to be a much more competitive, open economy. But this is not some divine rule that has been handed down from above on a tablet. It is interesting that it is often those industries that have benefited from protection from government, that have been able to grow and become strong, that are the greatest proponents of free and fair trade. Trade is a tool here; it is not an outcome.

What these provisions represent is basically a right for companies to make a government go before a local court or a specially arbitrated international tribunal if it believes that government has breached the terms of a trade deal. That is, if the company or investor is successful, governments are held financially liable for the losses that the company incurs. It is so pervasive that it cuts across all tiers of government. It is not just a question for the(241,380),(748,486) federal government; it is a question for state governments and a question for local governments.

The great shame here, and we have heard this time and time again, is that there is no transparency in this process. These deals are being negotiated in secret and the community do not understand them. It is a very technical area and it is only after a number of briefings that I have come to understand just how far reaching and pervasive some of these terms are.

We heard from the other side that actually Australia is not really going to be caught up in this. There have been very few investor-state dispute provisions targeting Australia. Let us not forget there have been over 550 claims made against governments over the past 10 years. There have already been 550 disputes, cases brought against governments, over the past 10 years. Australia has signed on to 28 agreements that include these provisions—deals with countries like China, India, Peru, Chile, Singapore and so on.

There is one situation that I want to focus on specifically because it highlights just how dangerous these investor-state dispute provisions are, and it is the issue of plain packaging. We now know that Philip Morris is suing Australia under an ISDS provision in the Hong Kong-Australia investment agreement. What they are doing is they are challenging some of the most significant public health measures introduced by any parliament—that is, our plain packaging legislation introduced by the previous government with the strong support of the Greens—to try and reduce the number of people taking up smoking. But under the 1993 Agreement between the Government of Australia and the Government of Hong Kong for the Promotion and Protection of Investments—it is called the Hong Kong agreement—we have seen a claim being brought against Australia. It is the first one that has been brought against Australia. I guarantee, if we sign on to this TPP with the ISDS provisions which we have heard about, it will not be the last.

Philip Morris's Asian division claim that Australia's tobacco plain packaging regime constitutes a breach of an agreement, and that agreement is that there is fair and equitable treatment of Philip Morris Asia's investments. They are asserting that the plain packaging legislation constitutes an unreasonable and discriminatory measure and that their investments have been deprived of full protection and security. That is exactly the point. This is one of the only products we have that, if it is used according to the manufacturer's instructions, will kill you. So the Australian government, as it has done over successive years, has taken an important measure to try and reduce smoking rates. It is what the community expect of us,
and yet here we have a multinational company taking action against the Australian
government because its profits are under threat. That is what this debate is about.

What we have is the Australian government making laws. They are good laws. They are
laws that save people's lives, and yet we have an undemocratic entity taking action against a
sovereign nation because of a threat to its investment. The question, of course, is: where does
this stop? We now know that there are questions around the Pharmaceutical Benefits Scheme
in this agreement, and access to affordable medicines. What about food regulation and food
safety?

Let me focus on one specific area. It is the area of a new class of drugs that we call
biological drugs. In the rules that we know were being discussed just this week, there were
negotiations around the use of biological drugs that will, if implemented, delay access to
affordable cancer treatments and new vaccines and increase the cost of PBS listed
medications to Australian consumers. There are about 64 of these biological drugs now listed
on the PBS. There are going to be many, many more to come. It is a very exciting area of
research, generating cancer drugs, medicines for conditions like rheumatoid arthritis and
multiple sclerosis and other vaccines. They are very difficult to make. The manufacture of
these biological drugs is technically very, very complex. It means that they are expensive.
During the period when the company makes the drug, it gets a monopoly because of the
nature of the production process of the drug. You cannot simply copy it in the same way that
you copy other medications.

We have a process called data exclusivity. Let me try and unpack that. Any drug that is
made gets five years of something called data exclusivity. It means that, if you are a generic
company and you want to copy someone else's drug, the trials that were done with the
originator drug cannot be used for a minimum period of five years. It is an added layer of
protection to the company that is innovating and making the drug. It says, 'If you want to copy
this drug, it is going to be five years before you can use our results.' Normally in our system,
with generic drugs, they do not have to repeat the clinical trials that are done by the
originator, and in five years time they get access to that data. It is called data exclusivity. It is
an added layer of protection to patent laws.

Under this proposed agreement, there is a plan to extend that data exclusivity. The US
wants 12 years of data exclusivity. It means that, should a biological drug be manufactured to
treat cancer or rheumatoid arthritis or multiple sclerosis, it will be an additional seven years
before a competitor can come along and say, 'We can make this drug, but we can make it for a
lot cheaper; it is going to cost the taxpayer a lot less.' That is seven years that we prevent a
competitor's entry into this market. These are the champions of free trade! 'We love
competition; we love it so much that we are going to stop competition for seven years by
disallowing another entrant into the market.' That is what the US wants right now. In
Australia, we have a five-year period. The US wants 12. What are we going to get? We
simply do not know, because these deals are being negotiated in secret.

I think it is a great irony here. Competition is great. It is wonderful. It is the engine to a
productive economy, unless you are a corporation who wants to use patent law, who wants to
evergreen and who wants to use data exclusivity to prevent the entry of a competitor—in
which case, 'We don't like it.' At the moment, this issue is being discussed very much. The
Pharmaceutical Patents Review Panel has said very explicitly that there are no examples that
indicate that the current protection systems are not sufficient enough to provide protection for innovator companies. I quote the Pharmaceutical Patents Review Panel:

... at this stage the case has not been made to extend data protection for biologics in Australia. We do not know what is going to happen. We may find it goes to eight years, as I think Japan are currently talking about, or 12 years, as is the case in other countries.

This is a huge issue. Let me give you an example. There is a particular drug that is marketed as Lucentis. It is an injectable antibody. It treats macular degeneration and stops people from going blind. It was a drug with the third-highest cost to government in 2013. It cost Australian taxpayers $286.9 million in total. When the first biosimilar drug comes onto the market—that is, a generic competitor—you will get a 16 per cent statutory price reduction. That is a saving to the taxpayer of $45 million in the first year, with a whole lot more flow-on effects from price disclosure in subsequent years. That is a huge saving. On the one hand, we have a government running around like Chicken Little saying: ‘Look at how unsustainable the health system is. We've gotta introduce co-payments. We've gotta make medicines more expensive.’ Well, you are right; you are making them more expensive through these trade deals. That is what they are doing. If you are so concerned about the cost of medications and the cost of the PBS, why would you sign a trade deal that is going to prevent the entry of cheaper generic drugs into the market? That is what we are dealing with right now.

There are so many other areas in this agreement that we could talk about. We have heard from my colleague Senator Rachel Siewert about a whole range of environmental disputes. There are disputes in Canada where investors are challenging measures introduced on a whole range of environmental grounds. There are pine resources in Quebec. They had a moratorium on hydraulic fracturing there, which meant that the company lost their gas exploration permit, so there is a dispute going on there. There is a moratorium on offshore wind farms in Ontario, which was a silly decision by that government, but it is their decision to make. They were democratically elected; if they want a moratorium, they should be able to do it—even if I disagree with that. Then we are told that the ban is a breach of the contract for electricity supply with the Ontario Power Authority for a 20-year period, so there is another dispute. There is OceanaGold, an Australian company, who have a subsidiary in El Salvador suing the government for more than $300 million. Why? Because the government refused to grant a goldmining permit. They are being sued because they knocked back a permit for a goldmine. In Sweden, there is an energy company that has fielded a request for arbitration against Germany. Again, it is because the government made a decision—in this case, I think it was a good one—to phase out nuclear power. Here we have situation after situation where democratically-elected governments, making usually good but sometimes bad decisions, are being challenged by hugely profitable multinational corporations because they affect their profits.

We have to decide who it is that should be making decisions on behalf of the public interest. Who is it? Democratically-elected governments or corporations? I know how I would decide. Then you have to ask the question: what is it all for? The Productivity Commission in 2010 said:

The Commission received no feedback from Australian businesses or industry associations indicating that ISDS provisions were of much value or importance to them.
Another quote:
There does not appear to be an underlying economic problem that necessitates the inclusion of ISDS provisions within agreements.

Here we have our government, behind closed doors, talking to a range of countries, introducing these secret provisions that nobody wants, not even Australian business, that will have an impact on a whole range of vital sectors making decisions about plain packaging, the costs of medicines, whether a mine should be approved and the sort of energy supply we have in this country. Who do we want to be making those decisions? I know who I want. I want the people, who, every few years, I mark a little number next to their name to be accountable. I want to know that, if they get it wrong, I can go back in a few years and boot them out. I do not want some faceless person whose only obligation is to return a profit and who is not accountable to the people that he is taking action against.

I commend Senator Whish-Wilson's legislation. It is an important issue and I think it is about time we started recognising that it is governments, not corporations, that should be legislating on behalf of the public interest.

Senator DASTYARI (New South Wales) (12:16): I do want to acknowledge the large presence of people in the press gallery who have come to hear my words about ISDS! I want to thank them for making the effort. And I will confirm the rumours are true that at 12.20 today—

Senator Whish-Wilson interjecting—

Senator DASTYARI: No, the rumours are true! At 12.20 today there is going to be a pretty important announcement in the Senate chamber, when Senator Fifield finally confirms rumours that he is appearing on Dancing with the Stars. I do not have much time because I believe we are limited to 12.20, so I will try to cover all the ground that I want to cover. Firstly, I congratulate Senator Whish-Wilson for bringing this bill forward, the Trade and Foreign Investment (Protecting the Public Interest) Bill 2014, and for encouraging us to have this debate. The truth is that, for something as significant as ISDS, there has not been all that much interest. It is not a topic that, frankly, enough people understand or enough people have been talking about. That is unfortunate, considering the significance of all of this and the impact this can and will have.

It is important to take a step back and see where all this came from and why it was significant in the first place. The principle behind it, like a lot of principles, is not necessarily a bad one. I slightly disagree with some of what Senator Di Natale said, although I agree with his sentiment. I do not oppose the idea that corporations and businesses have a right to protect some of their investments and that they do have a right, especially when dealing with certain nations, including Third World nations, that do not have the same kind of natural law or rights that we have where a general's brother will suddenly start nationalising your business for their own gain. In those kinds of extreme circumstances there should not be some kind of international or trade vehicle that allows businesses to maintain and protect their rights and property. That, as a principle, I do not think is a bad thing. But what is incredibly unfortunate is what has happened in the ISDS debate and what we consistently see happen. What starts off as what seems like a fairly reasonable principle—that is, businesses that make huge investments in other nations should have some kind of capacity to protect their investment—is overtaken and distorted where big corporations are using free trade agreements to stymie or
profit from what would otherwise be democratic, reasonable and rational decisions that governments make. Governments can and will from time to time be making decisions that will go against the interests of private corporations. But when they do it and they do it in the public good, they should have a right to be able to do that. Of course, within Australian law we believe that when this happens to Australian companies they should have an opportunity to participate in that process. We have a parliament and places like this so that we can have that kind of debate.

What is really worrying about the ISDS debate is that a corporation can take on a government without having to really make the public case, without even having to debate whether their actions are in the public interest or public good and, more unfortunately—and you see this happening right around the world—corporations are misusing ISDS provisions in obscure trade agreements, some of which go back 20 or 30 years, simply to give themselves a vehicle or an avenue to make those kinds of claims.

There is this idea that there is a handful of international lawyers who are becoming very wealthy in this quasi legal space. You also have a whole lot of senior lawyers, senior jurists, senior academics across the world who are highlighting the fact that it is a really big problem when a small group of people meet in a hotel room to resolve an ISDS dispute and make decisions that can have a significant impact of tens, hundreds or even billions of dollars on a national economy that should be entitled to make those decisions.

Where I slightly disagree with respect to this legislation—and where I disagree somewhat with Senator Whish-Wilson, for whom I have a lot of respect for on this issue—is prohibiting it as a rule. I do not think that is the right way to go. But I think we should be very aware of ensuring it is not part of how we engage in our own trade negotiations.

Those in the chamber who follow this stuff closely—and a lot of people follow this stuff a lot closer than I do—can tell you about where things are at with the Trans-Pacific Partnership and whether there will be ISDS provisions within that. I congratulate the former Howard government on taking out the ISDS provisions when they initially negotiated the free trade agreement with the US. I understand there is a lot of pressure from many corporations that it be included in future agreements. Those are not just domestic corporations; I think it is the big American companies that have been very outspoken in their support of including the ISDS provisions. The American government and the American congress itself have been quite supportive. The reason is that they have never been at the other end of it. The American system has never really been at the other end of losing one of these big disputes. Once that happens, and I think it is inevitable that it will happen, the tide will start to turn.

We need to look at what is in the Australian interest and what is in our own interest here. To highlight the concern, I want to use the most recent free trade agreement with South Korea as an example. Again, as a point of principle, a free trade agreement with South Korea is a good thing. Is it going to massively change the Australian economy? No. There are larger trade deals; there are smaller trade deals. But it is something that should be welcomed. The inclusion of the ISDS provisions is, I think, unfortunate. I think it has been made quite clear by the former trade minister at the time, Craig Emerson, and others that it was not something Labor was prepared to negotiate into the agreement. We felt that the agreement would have been better and that the agreement should not have included those ISDS provisions. Unfortunately, the current government had a different view. It passed it with the ISDS. Was
that reason enough, as far as we were concerned, to oppose the whole free trade agreement? No. But it is unfortunate. We believe it could have been a better free trade agreement without ISDS. We certainly would have negotiated it so that it would not have been included.

More specifically, though, getting to Senator Whish-Wilson's bill, I think it is unfortunate that a whole chunk of Australian business and the Australian community are not really aware just of the significance of this ISDS debate for Australian society. Senator Di Natale made a reference to the most recent case, regarding tobacco and an obscure provision within a free trade agreement between Australia and Hong Kong that actually goes back to before Hong Kong even returned to being part of China. To be able to use that and latch onto that to make an argument against what I think was a very reasonable policy that was introduced by the Labor Party is concerning, and it should be concerning.

When we are seeing ISDS being used in that way, the international community has a right to be concerned. It should not be part of our free trade agreements. We should be quite outspoken in opposing it when we are looking at the TPP and other trade deals. I note that I am running out of time but I will say that Senator Whish-Wilson should be congratulated for bringing this forward. I do, however, believe there are better ways of tackling the ISDS issue than through this bill. While I will not personally be supporting the bill itself, I certainly support the sentiment that we should all be very, very concerned about ISDS and the risks that arise from it.

**The DEPUTY PRESIDENT:** Order! It being 12:25, the time allotted for this debate has now expired.

Debate interrupted.

**PETITIONS**

**The Clerk:** A petition has been lodged for presentation as follows:

**Child Support**

To the Federal Senate

We the undersigned are asking that the Australian Senate & the Australian Federal Government review the entire current Child Support system and create a new system that employs enough workers so that each case can be properly assessed individually.

The amount payable to the other guardian of the child/children needs to be assessed on a case by case basis. We the undersigned would like the costs of each child to be equally shared between each of the biological parents 50/50. The current Income formula needs to be reviewed and capped at a fair and reasonable to be determined rate for the average income in Australia.

If access is denied to the paying parent (Unless due to a legitimate proven danger to the child) payments shall be reduced to a minimum until such time as a visitation arrangement can be made to allow access to that said child/children.

If the paying parent has attempted to start another family with other children, those children in the new family shall be calculated by CSA the same as the child/children they are paying Child support for.

By **Senator Madigan** (from 1,993 citizens)

Petition received.
NOTICES

Presentation

Senator Cameron to move on the next day of sitting:

That the Fair Entitlements Guarantee Amendment Regulation 2014 (No. 1), as contained in Select Legislative Instrument 2014 No. 147 and made under the Fair Entitlements Guarantee Act 2012, be disallowed.

Senator Rice to move on the next day of sitting:

That the Senate—

(a) notes that:

(i) discussions about East Coast High Speed Rail (HSR) have been going on for many years, and

(ii) under this Government there has been no meaningful action to progress East Coast HSR, and that ongoing delays raise the possibility of a proposed route being developed by other interests; and

(b) calls on the Government to immediately establish a High Speed Rail Authority in legislation to formalise discussions with state, territory and local governments, as well as industry and the community, to commence work on preserving the HSR corridor and progress other early planning, so that environmental and social impact studies can commence in 2015. (general business notice of motion no. 499)

Senator Di Natale to move on the next day of sitting:

That there be laid on the table by the Assistant Minister for Health, no later than 3 pm on 26 November 2014, a copy of the advice which has informed the Minister for Health’s decision to not send Australian personnel to West Africa in response to the Ebola epidemic. (general business notice of motion no. 500)

Senator O’Sullivan to move on the next day of sitting:

That the Senate acknowledges the fact that, according to the Bureau of Resources and Energy Economics, over the past 12 months over $50 billion worth of resource projects have been finalised across the nation, with increases in production, including over 200 million tonnes of iron ore, 40 million tonnes of coal and more than 1 000 petajoules of gas, creating jobs and boosting the economy of thousands of small businesses and by extension, nourishing the nation’s economy. (general business notice of motion no. 501)

COMMITTEES

Selection of Bills Committee

Report


Ordered that the report be adopted.

Senator BUSHBY: I seek leave to have the report incorporated in Hansard.

Leave granted.

The report read as follows—
SELECTION OF BILLS COMMITTEE
REPORT NO. 14 OF 2014

1. The committee met in private session on Wednesday, 29 October 2014 at 7.21 pm.
2. The committee resolved to recommend—That—
   (a) the provisions of the Acts and Instruments (Framework Reform) Bill 2014 be referred immediately to the Legal and Constitutional Affairs Legislation Committee for inquiry and report by 25 November 2014 (see appendix 1 for a statement of reasons for referral);
   (b) the provisions of the Australian Citizenship and Other Legislation Amendment Bill 2014 be referred immediately to the Legal and Constitutional Affairs Legislation Committee for inquiry and report by 1 December 2014 (see appendix 2 for a statement of reasons for referral);
   (c) the provisions of the Broadcasting and Other Legislation Amendment (Deregulation) Bill 2014 be referred immediately to the Environment and Communications Legislation Committee for inquiry and report by 9 February 2015 (see appendix 3 for a statement of reasons for referral);
   (d) the provisions of the Customs Amendment (Japan-Australia Economic Partnership Agreement Implementation) Bill 2014 and the Customs Tariff Amendment (Japan-Australia Economic Partnership Agreement Implementation) Bill 2014 be referred immediately to the Foreign Affairs, Defence and Trade Legislation Committee for inquiry and report by 27 November 2014 (see appendix 4 for a statement of reasons for referral);
   (e) the provisions of the Freedom of Information Amendment (New Arrangements) Bill 2014 be referred immediately to the Legal and Constitutional Affairs Legislation Committee for inquiry and report by 25 November 2014 (see appendices 5 and 6 for a statement of reasons for referral);
   (f) contingent upon its introduction in the House of Representatives, the provisions of the Tax and Superannuation Laws Amendment (2014 Measures No. 6) Bill 2014 be referred immediately to the Economics Legislation Committee for inquiry and report by 25 November 2014 (see appendix 7 for a statement of reasons for referral); and
   (g) the provisions of the Telecommunications Legislation Amendment (Deregulation) Bill 2014 and the Telecommunications (Industry Levy) Amendment Bill 2014 be referred immediately to the Environment and Communications Legislation Committee for inquiry and report by 9 February 2015 (see appendix 8 for a statement of reasons for referral).

3. The committee resolved to recommend—That the following bills not be referred to committees:
   • Albury-Wodonga Development Corporation (Abolition) Bill 2014
   • Amending Acts 1970 to 1979 Repeal Bill 2014
   • Building Energy Efficiency Disclosure Amendment Bill 2014
   • Omnibus Repeal Day (Spring 2014) Bill 2014
   • Statute Law Revisions Bill (No. 2) 2014.
The committee recommends accordingly.

4. The committee considered the following bill but was unable to reach agreement:
   • Counter-Terrorism Legislation Amendment Bill (No. 1) 2014

5. The committee deferred consideration of the following bills to its next meeting:
   • Australian War Memorial Amendment Bill 2014
   • Civil Law and Justice Legislation Amendment Bill 2014
   • Corporations Amendment (Publish What You Pay) Bill 2014
   • Corporations Legislation Amendment (Deregulatory and Other Measures) Bill 2014
• Export Finance and Insurance Corporation Amendment (Direct Lending and Other Measures) Bill 2014
• Mining Subsidies Legislation Amendment (Raising Revenue) Bill 2014
• Motor Vehicle Standards (Cheaper Transport) Bill 2014
• Save Our Sharks Bill 2014
• Social Security and Other Legislation Amendment (Caring for Single Parents) Bill 2014
• Treasury Legislation Amendment (Repeal Day) Bill 2014.

5. The committee deferred consideration of the following bills to its next meeting:
• Australian War Memorial Amendment Bill 2014
• Civil Law and Justice Legislation Amendment Bill 2014
• Corporations Amendment (Publish What You Pay) Bill 2014
• Corporations Legislation Amendment (Deregulatory and Other Measures) Bill 2014
• Export Finance and Insurance Corporation Amendment (Direct Lending and Other Measures) Bill 2014
• Mining Subsidies Legislation Amendment (Raising Revenue) Bill 2014
• Motor Vehicle Standards (Cheaper Transport) Bill 2014
• Save Our Sharks Bill 2014
• Social Security and Other Legislation Amendment (Caring for Single Parents) Bill 2014
• Treasury Legislation Amendment (Repeal Day) Bill 2014.

(David Bushby)

Chair
30 October 2014

APPENDIX 1

SELECTION OF BILLS COMMITTEE
Proposal to refer a bill to a committee:

Name of bill:
Acts and Instruments (Framework Reform) Bill 2014

Reasons for referral/principal issues for consideration:
To ensure proper scrutiny of this Bill and its potential implications.

Possible submissions or evidence from:
Relevant agencies, stakeholder groups and the public.

Committee to which bill is to be referred:
Senate Legal and Constitutional Affairs Legislation Committee

Possible hearing date(s):
To be determined by the committee
Possible reporting date:
   26 November 2014
(signed)
Senator Moore

APPENDIX 2
SELECTION OF BILLS COMMITTEE
Proposal to refer a bill to a committee:
Name of bill:
   Australian Citizenship and Other Legislation Amendment Bill 2014
Reasons for referral/principal issues for consideration:
   To allow detailed consideration of the provisions of the Bill to ensure it does not have unintended adverse consequences.
   To facilitate public submissions to ensure stakeholders views can be taken into account.
Possible submissions or evidence from:
   Department of Immigration and Border Protection
   Immigration stakeholders
Committee to which bill is to be referred:
   Senate Legal and Constitutional Affairs Legislation Committee
Possible hearing date(s):
   To be determined by the committee
Possible reporting date:
   Monday 1 December 2014
(signed)
Senator Moore

APPENDIX 3
SELECTION OF BILLS COMMITTEE
Proposal to refer a bill to a committee:
Name of bill:
   Broadcasting and Other Legislation Amendment Bill 2014
Reasons for referral/principal issues for consideration:
   The removal of auditing requirements for Australian content has the potential to significantly impact the amount of Australian content in the local broadcast media landscape. In addition, there are significantly concerns over the legislation's change to captioning requirements. Both have the potential to significantly impact the viewing experience of Australian television content for local audiences.
Possible submissions or evidence from:
   Television stations (Seven, Nine, Ten, ABC, SBS),
   Consumer groups such as CHOICE.
User groups of captioning services.
Media diversity and competition academics.

Committee to which bill is to be referred:
Senate Environment and Communications Legislation Committee

Possible hearing date(s):
28 November

Possible reporting date:
February 9, 2015

(signed)
Senator Siewert

APPENDIX 4
SELECTION OF BILLS COMMITTEE
Proposal to refer a bill to a committee:

Name of bill:
Customs Amendment (Japan-Australia Economic Partnership Agreement Implementation) Bill 2014
Customs Tariff Amendment (Japan-Australia Economic Partnership Agreement Implementation) Bill 2014

Reasons for referral/principal issues for consideration:
To enable thorough scrutiny of the provisions of the legislation.
To supplement the inquiry of the Joint Standing Committee on Treaties into the Agreement.

Possible submissions or evidence from:
Department of Foreign Affairs and Trade
Australian Customs and Border Protection Service
Customs Brokers and Forwarders Council of Australia
Export Council of Australia
Other industry groups and businesses affected by the Bill [see the Senate Legal and Constitutional Affairs Legislation Committee inquiry into the Customs Amendment (Korea-Australia Free Trade Agreement Implementation) Bill 2014]

Committee to which bill is to be referred:
Senate Foreign Affairs, Defence and Trade Legislation Committee.

Possible hearing date(s):
To be determined by the committee

Possible reporting date:
Monday 1 December 2014

(signed)
Senator Moore
APPENDIX 5
SELECTION OF BILLS COMMITTEE
Proposal to refer a bill to a committee:
Name of bill:
  Freedom of Information Amendment (New Arrangements) Bill 2014
Reasons for referral/principal issues for consideration:
  To ensure proper scrutiny of this Bill and its potential implications.
Possible submissions or evidence from:
  Relevant agencies, stakeholder groups and the public.
Committee to which bill is to be referred:
  Senate Legal and Constitutional Affairs Legislation Committee
Possible hearing date(s):
  To be determined by the Committee
Possible reporting date:
  26 November 2014
(signed)
Senator Moore

APPENDIX 6
SELECTION OF BILLS COMMITTEE
Proposal to refer a bill to a committee:
Name of bill:
  Freedom of Information Amendment (New Arrangements) Bill 2014
Reasons for referral/principal issues for consideration:
  The disbanding of the Office of the Australian Information Commissioner will result in a lack of independent review and no statutory body advocating on behalf of information access and open and transparent government. It will result in unaffordable review processes via the AAT. The implications of this bill on the democratic process and on the ability of the media and NGOs to review the decisions of government are unknown and a committee inquiry will help identify them.
Possible submissions or evidence from:
  Media Entertainment and Arts Alliance
  NSW Council of Civil Liberties
  Office of the Australian Information Commissioner
  Right to Know
  Human Rights Law Centre
Committee to which bill is to be referred:
  Senate Finance and Public Administration Legislation Committee
APPENDIX 7
SELECTION OF BILLS COMMITTEE
Proposal to refer a bill to a committee:
Name of bill:
Tax and Superannuation Laws Amendment (2014 Measures No.6) Bill 2014
Reasons for referral/principal issues for consideration:
Consider the appropriate rate of indexation for fuel and ensure fuel tax credit provisions operate efficiently (schedule 4), as do grants calculated by reference to the duty rates (schedule 5).
Ensure that amendments have been effectively designed to remove tax impediments to certain business restructures (schedule 1), provide certainty for foreign pension fund investments in Australian managed investment trusts (schedule 2) and implement tax aspects of the Force Posture Agreement with the United States (schedule 3).
Possible submissions or evidence from:
Australian Chamber of Commerce and Industry
Business Council of Australia
Australian Trucking Association
National Farmers Federation
Minerals Council of Australia
Department of the Treasury
Australian Taxation Office
Committee to which bill is to be referred:
Senate Economics Legislation Committee
Possible hearing date(s):
To be determined by the committee.
Possible reporting date:
24 November 2014
(signed)
Senator Fifield
APPENDIX 8

SELECTION OF BILLS COMMITTEE

Proposal to refer a bill to a committee:

Name of bill:
- Telecommunications Legislation Amendment (Deregulation Bill 2014)
- Telecommunications (Industry Levy) Amendment Bill 2014

Reasons for referral/principal issues for consideration:
This bill contains a number of legislative changes which have the potential to significantly change the operation of the telecommunications industry. Especially concerning is Schedule 5, which will remove a requirement for telcos to divulge the number of warrantless metadata requests they receive from law enforcement agencies. In order to ensure regulatory stability in the telecommunications industry and transparency of warrantless requests, the industry and consumers must be able to provide feedback on this bill in detail.

Possible submissions or evidence from:
- Telecommunications industry (eg Telstra, Optus, iiNet, Vodafone)
- Consumer representatives (eg ACCAN, Choice)
- Civil liberties organisations (eg Civil Liberties Australia, the NSW Council of Civil Liberties)

Committee to which bill is to be referred:
- Senate Environment and Communications Legislation Committee

Possible hearing date(s):
- 28 November

Possible reporting date:
- February 9, 2015

(signed)

Senator Siewert

Senator FIFIELD (Victoria—Manager of Government Business in the Senate and Assistant Minister for Social Services) (12:25): I move:

At the end of the motion, add "and that the Counter-Terrorism Legislation Amendment Bill (No. 1) 2014 not be referred to a committee".

Senator SIEWERT (Western Australia—Australian Greens Whip) (12:25): The Greens do not agree that that bill should not be referred. We did refer it. We think that the Senate committee should be looking into that particular bill on provisions. We are very disappointed that the Senate is deciding not to refer it, so we would like to note our dissent from that call by the Selection of Bills Committee. I obviously did not sway the committee in my arguments last night, and I do not think I will sway the Senate in the arguments now. I do not wish to delay the business of the Senate but I would like it recorded that we dissent from the agreement between Labor and the government that it should not be sent to committee.

The DEPUTY PRESIDENT: The question is that Senator Fifield's amendment be agreed to.

Question agreed to.
The DEPUTY PRESIDENT: The question now is that the motion, as amended, moved by Senator Bushby be agreed to.

Question agreed to.

BUSINESS

Rearrangement

Senator FIFIELD (Victoria—Manager of Government Business in the Senate and Assistant Minister for Social Services) (12:27): I move:

That:
(a) the following government business orders of the day be considered from 12.45 pm today:
   No. 3 Dental Benefits Legislation Amendment Bill 2014
   No. 4 Marine Safety (Domestic Commercial Vessel) National Law Amendment Bill 2014
   No. 5 Albury-Wodonga Development Corporation (Abolition) Bill 2014
(b) government business be called on after consideration of the bills listed in paragraph (a) and considered till not later than 2 pm today.

Question agreed to.

Senator FIFIELD: I move:

That the order of general business for consideration today be as follows:
(a) general business notice of motion no. 494 standing in the name of Senator Moore relating to petrol tax; and
(b) orders of the day relating to documents.

Question agreed to.

Leave of Absence

Senator McEWEN (South Australia—Opposition Whip in the Senate) (12:28): by leave—I move:

That leave of absence for personal reasons be granted to Senator Carr for today, 30 October 2014.

Question agreed to.

COMMITTEES

Foreign Affairs, Defence and Trade References Committee

Reporting Date

The Clerk: An extension notification has been lodged by the Foreign Affairs, Defence and Trade References Committee in respect of business of the Senate order of the day No. 1 for today until tomorrow.

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

Days and Hours of Meeting

Senator FIFIELD (Victoria—Manager of Government Business in the Senate and Assistant Minister for Social Services) (12:29): I ask that government business notice of motion No. 1 relating to days of meeting and routine of business be taken as formal.

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

Senator Moore: Yes.

The DEPUTY PRESIDENT: Formality has been denied.

MOTIONS

Suspension of Standing Orders

Senator FIFIELD (Victoria—Manager of Government Business in the Senate and Assistant Minister for Social Services) (12:29): Pursuant to contingent notice standing in the name of the Leader of the Government in the Senate, Senator Abetz, I move:

That so much of standing orders be suspended as would prevent me moving a motion to provide for the consider of a matter, namely a motion to give precedence to government business notice of motion No. 1.

I guess I should not be surprised that the opposition have sought to deny the opportunity for this motion to be moved as a formal motion. Sadly, it is another attempt by the opposition to thwart the ability of the government of the day to prosecute and deal with legislation on its agenda. While it does not surprise me that the opposition are not being helpful, I must say it does surprise me that, on this particular occasion with this particular motion, the opposition are not prepared to consider it.

I think it is important, Mr Deputy President, to take you through what this motion is seeking to do. You would be aware, because you are one of the presiding officers of this place, that on Monday, 17 November, the President of the People's Republic of China will be addressing the House of Representatives. That will be an address to which the House will invite senators. On Tuesday, 18 November, the Prime Minister of the Republic of India will be addressing the House of Representatives. Again, the House will invite senators to attend.

So senators will be here on that Monday and on that Tuesday, and it is the strong view of the government that, given we will be here as senators for that ceremonial occasion, we should actually do some work. We should actually do the people's business. We should actually ensure that taxpayers, who will be paying for each of us to come to Canberra to hear those addresses, get value for their taxpayer dollars. That is why we are putting forward that the Senate sit on Monday and on Tuesday. Since we are here on Monday and Tuesday, why don't we go crazy and sit on the Wednesday as well?

There is also the issue of the day of Senate estimates which was postponed as a mark of respect for former Prime Minister Whitlam. We all agree that estimates is an important accountability mechanism. I would have thought that all senators would agree that that schedule of estimates hearings should be adhered to and that we should find another opportunity to transact that business. Given that we will be here Monday, Tuesday and Wednesday for regular Senate sitting days, we are proposing that we also be here on Thursday 20 November to transact the business of Senate estimates committees.
It makes sense that since we will be here Monday and Tuesday for those ceremonial occasions that we make it a full week of Senate business. Obviously, the proposition in this motion is that the business of the Senate suspend on the Monday to enable us to join our House colleagues for the important addresses which will take place in that chamber. But I would have thought that this is one of the most eminently sensible propositions that could be put forward in relation to an additional sitting week. I know I do not have to point this out to you, Mr Deputy President. You see a play here ball by ball and see that there isn't the cooperation from those opposite to facilitate the orderly transaction of the Senate business.

I have said before that when we were in opposition I think we were models of cooperation. Of course, there are incredibly contentious bills, and we all agree that debate is robust and it takes time. But there were many other pieces of less contentious legislation whose passage we readily facilitated, and I know Senator Moore, on occasion, does do that. But I suspect that her colleagues in the other place send instructions from time to time that this place not be perhaps as cooperative as some on the other side may like. I am giving those colleagues on the other side the benefit of the doubt.

I think it is a very reasonable proposition that the Senate sit in that week commencing 17 November to transact business, to debate legislation and also to have the make-up day of Senate estimates hearings. I am hopeful that there will be a majority of colleagues who think that is a reasonable proposition.

Senator MOORE (Queensland) (12:34): Mr Deputy President, from your bird's-eye seat, watching how this place has operated over a number of years, you would be absolutely aware that this opposition has said from day one that we are open to having proposals put by the government of the day—which is responsible for the sitting pattern—and open to having responsible suggestions put to us where there is a case of urgency around legislation which needs to be considered for any extra hours. This is the way that we want to facilitate how things operate effectively in the Senate. Already this morning we have had a discussion and process around extending hours today. But, again, there was no urgency.

We had a proposal from the government about extra sitting days in the week of the ceremonial activities with a whole list of legislation attached. I cannot quite remember, but I think there were at least 20 bills attached. There was so sense of urgency and no sense of priority, but there was an expectation that this Senate would respond to the whims of the government because they feel as though it would be an appropriate time to sit. Therefore, our job on this side of the chamber was simply to say yes, it was fine, even though we have said consistently that we have a principled approach to how we respond to requests and that was around having time to consider and look at the real issues of urgency. The responsibility for setting the pattern and for having an understanding and expectation of what the requirements of this place will be to consider legislation is with the government. When they put forward a calendar with what they believe will be the expected dates of sitting, we would then think that they have taken into account what the legislation will be. However, we know that, in the particular make-up of this Senate, we can find out, often, by reading the media of the day, what the real issues are, as to when the expectation is that legislation will pass, so that that will be the determining factor of how these processes are done.

So we put on record again: we do value the role of the Senate in appropriate consideration of any legislation that comes before us. We accept that there should be the most effective
processes put in place. As to the process for the sitting week that has been put forward, some senators will be here, though not all, and what we have in place for us now are ceremonial expectations. There are other issues going on; we have to look at the balance of need for senators to do other jobs. We now have this process where we will be told by the government that they need these three days—and we are not quite sure what for, except that there are a lot of bills that have to be considered.

That comes back to the management of this place by the government. If there are so many bills, there possibly should have been other considerations earlier about how we do that. So we are waiting to hear what the urgency is for this particular request. And, should the government be putting forward these requests, I would think that they should be put forward in the appropriate part of our agenda, which is under general business—under government business. Putting forward these executive motions under discovery of formal business limits the ability for this discussion to occur. Under discovery of formal business, there cannot be a discussion, a debate, around the process—it is a very set program—and we would have to suspend standing orders to have any debate around it.

So we would request that, just in the way that the Senate operates, we would have an understanding that this kind of change of program and change of expectation as to sittings would come under government business so that we would be able to handle it in that way. Otherwise, it just seems that an expectation is put on the Senate that it is going to happen, and there is limited opportunity to put forward other issues and to work out exactly why we should do it.

I would also like to remind the Senate that we did not, in government, ever put forward hours of business motions in this way. We understood that it was actually for government business. I would remind the Manager of Government Business: if you checked the record, you would see that this opposition has been most cooperative. We have given up chunks of our time—I think that is the technical term, Mr Deputy President, in terms of the processes that we have given up—to ensure that the Senate could operate effectively, and that, when there is an urgency that can be shared, where we can understand what is going on, we are prepared to negotiate. So I say again, as to Senator Fifield's position: we have been cooperative; we need processes followed. (Time expired)

Senator IAN MACDONALD (Queensland) (12:40): It seems like the Labor Party is using the old work-to-rule arrangement again. This has been talked about for some time. We are all familiar with the fact that the Senate will be coming back for heads-of-state addresses. While we are here, I think the Australian public would want us to transact some business rather than just come down for a formal function. So I think that the motion moved by the Manager of Government Business should be adopted. And, Mr Deputy President, I move that the motion be now put.

The DEPUTY PRESIDENT: No, I am sorry—you cannot move that, having just spoken, Senator Macdonald. I call Senator Cameron.

Senator CAMERON (New South Wales) (12:40): Thank you, Mr Deputy President—

The DEPUTY PRESIDENT: Sorry, Senator Cameron—just a moment. Senator Macdonald, on a point of order?

Senator Ian Macdonald: What prevents me from moving the motion?
The DEPUTY PRESIDENT: Standing order 199.

Senator Ian Macdonald: Which says?

The DEPUTY PRESIDENT: Now you are really testing me, but my advice is that it is standing order 199. Standing order 199 effectively says: a senator cannot move the closure of the debate if they have spoken in the debate, unless they are a minister.

Senator Ian Macdonald: A point of order, Mr Deputy President: that is the motion I moved. I had some preamble to moving the motion, but—

The DEPUTY PRESIDENT: No.

Senator Ian Macdonald: I did not hear anything about a minister in the ruling.

The DEPUTY PRESIDENT: No, Senator Macdonald: you sought the call on the question that was already before the chair—

Senator Ian Macdonald: Yes.

The DEPUTY PRESIDENT: You did not move another motion until after you had spoken to the question that was already before the chair. So standing order 199 prevents you from moving closure at this time.

Senator Ian Macdonald: So you are saying, Mr Deputy President, that if I had stood up and said nothing else but 'I move the motion be put' that would have been in order, but because I prefaced the motion—

The DEPUTY PRESIDENT: You spoke to the motion—

Senator Ian Macdonald: with some remarks—

The DEPUTY PRESIDENT: No, no—you did not preface the motion; you spoke to the motion that was already before the chair. I am not going to debate this with you—

Senator Ian Macdonald: I am not asking you to debate it.

The DEPUTY PRESIDENT: across the chamber. I have ruled that you cannot move it.

Senator Ian Macdonald: Can I indicate that I disagree with your ruling.

The DEPUTY PRESIDENT: You can disagree with my ruling; if you want to dissent from my ruling, that is another matter. Senator Cameron.

Senator CAMERON: I rise to oppose this notice of motion. Senator Fifield talks about the proposition being 'eminently sensible'. I just find the words 'eminently sensible' and 'the Liberal Party' not to be compatible at all. This is a government that almost for nine months did absolutely nothing. They got into office, and they had all the three-word slogans, and it took them nine months to try and convert those three-word slogans into a parliamentary proposal that would deal with a legislative process of this place. And we warned the coalition. We warned them, when they were putting together the time frame for parliamentary sittings for this session, that they had got it wrong—that there probably would not be enough time. But we were ignored. And this so-called eminently sensible government, that has demonstrated nothing but chaos in this place from the first sitting to this sitting, cannot stand up here and lecture us about any of these issues about trying to get legislation through this place.

As Senator Moore has said, we are prepared to accept any responsible suggestions. But we need to deal with those responsible suggestions on the basis that there is some urgency to the issues before us. No argument has been put up about the urgency. No argument has been put
up about why this is eminently sensible, other than assertions. Assertions do not make good arguments. Simply asserting urgency and simply asserting that it is eminently sensible is not good enough, Senator Fifield. It is not good enough when you have nine months of inactivity behind you. (Time expired)

The DEPUTY PRESIDENT: I would remind senators to direct their remarks to the chair.

Senator Cameron: I apologise.

Debate interrupted.

BILLS

Dental Benefits Legislation Amendment Bill 2014
Second Reading

Debate resumed on the motion:

That this bill be now read a second time.

Senator McLUCAS (Queensland) (12:45): I rise to speak to the Dental Benefits Legislation Amendment Bill 2014 and indicate that the opposition will be supporting this legislation. This is legislation that would have been adopted by Labor if we had been in government, so we indicate that we will support it. The purpose of the Dental Benefits Legislation Amendment Bill 2014 is to amend the Health Insurance Act 1973 and the Dental Benefits Act 2008 to specify that Professional Services Review Scheme, which enforces compliance with appropriate practices, applies to services provided under the Child Dental Benefits Schedule. It is also to waive debts incurred by dentists under the superseded Chronic Disease Dental Scheme before 1 April 2010 due to noncompliance with administrative requirements. It waives debts incurred after this date if a dentist can demonstrate an intent to comply with the scheme. The bill also will ensure compliance with the legislative requirements for the payment of dental benefits and it allows the minister to delegate powers to insert a definition of a dental provider and allow for protected information to be shared between agencies.

The Child Dental Benefits Schedule—CDBS—was closed on 1 December 2012. It operated under Health Insurance (Dental Services) Determination 2007, as made under section 3C of the Health Insurance Act 1973. The scheme provided for up to $4,250 over two calendar years in Medicare benefits for private dental services for people with chronic medical conditions and complex care needs. The Department of Human Services conducted audits on the CDBS and found that there was a high rate of noncompliance with the provider reporting requirements set out in section 10(2) of the determination. Debts were raised against dentists found to be noncompliant through the audit process.

Further, more than 20 per cent of recipients were not pensioners or concession card holders and more than 20 per cent of spending was on high-cost restorative services. Section 10(2) of the determination required a dentist to provide a treatment plan to the referring medical practitioner and the patient and a quote to the patient before starting treatment. Audits for claims of benefits under the CDBS found that many dentists did not comply with these requirements. As a result, benefits were incorrectly paid and under section 129AC of the Health Insurance Act. These amounts are due to the Commonwealth from the dentists concerned.
Representations from the Australian Dental Association and other groups outlined that dentists had not been aware of their obligation under the Chronic Disease Dental Scheme until April 2010 and the government has decided that debts due to the Commonwealth solely as a result of noncompliance with section 10(2) before April 2010 should be waived. The government has further decided that debts solely due to noncompliance after April 2010 should be waived as long as the dentist can demonstrate an intention to comply with the CDBS obligations.

At present, the debt waivers are proceeding under section 34 of the Financial Management and Accountability Act. However, the government thinks this is a slow and unwieldy process that requires unnecessary administration and processing in both the Department of Human Services and the Department of Finance. This has resulted in the government's decision to include a special debt waiver provision in the Health Insurance Act. Powers to assist the chief executive of Medicare in determining and enforcing compliance with legislative requirements for the payments of benefits are inserted under part 3—compliance. Equivalent powers were inserted into the Health Insurance Act through an amendment in 2011 and the provisions in this part are modelled on those Health Insurance Act provisions.

Part 4 of the bill provides for a delegation of ministerial powers, which is currently not included. Part 5 amends the definition of the dental provider to align with the definition under the national law dealing with the registration of health professionals. Part 6, the provision of information, allows for information obtained under the act to be disclosed to the minister and the department administrating the Veterans' Entitlements Act 1986 if the disclosure is for the purpose of administering the Dental Benefits Act, as people may be eligible for dental benefits if they are receiving certain allowances paid by the Department of Veterans' Affairs. Part 7 is a minor technical amendment.

The Child Dental Benefits Schedule commenced on 1 January 2014 and provides two- to 17-year-olds who meet a means test with access of up to $1,000 of benefits over two calendar years for basic dental treatment. The Child Dental Benefits Schedule replaces the Medicare Teen Dental Plan and provides more comprehensive coverage through a greater range of services to a larger group of children. The CDBS formed part of Labor's $4.1 billion dental reform package announced on 29 August 2012. The dental reform package comprised $2.7 billion for around 3.4 million Australian children, who will be eligible for subsidised dental care through the CDBS. It provided $1.3 billion for around 1.4 million additional services for adults on low incomes, who will have better access to dental care in the public system, and $225 million for capital works and workforce in the dental area to support expanded services for people living in outer metropolitan, regional, rural and remote areas.

There are potential risks to the Child Dental Benefits Schedule. Minister Dutton flagged concerns with the way he thinks the CDBS has been structured in the second reading speech to this bill in the other place. He said he was going to keep a watching brief on the outlays and the initial usage rates, as well as practices across states and territories in relation to their operation of this scheme. I am concerned, and I put this on the record, that this could be the government's commencement of undoing this very successful scheme. It is extraordinary that in our country it is only in recent years that we have included dental services in our federally funded health system. Unfortunately, when Medibank was first being negotiated, dental services were not included. It was seen that having a big conversation, if I can put it that way,
with both the medical profession and the dental profession at the same time would be a hard thing to achieve, so a decision was made not to include dental services.

That has been a concern to Labor for a long period of time. That is why when we were in government we put a lot of effort into ensuring that we improved our effort from the federal perspective to provide support, particularly for low-income earners, to receive proper dental care. We do not have a good dental record in this country, and it is time that we make sure that children particularly are attending the dentist as regularly as they should and that they get into the habit, frankly, of going to the dentist. Unfortunately, not many of us like doing that, but that is why we established the Child Dental Benefits Schedule when we did, to basically get into place the habit of going to the dentist on a regular basis. Prevention is better than cure, no more so than when it comes to dental services.

This also gives me an opportunity to apprise the Senate of work that the Senate Select Committee on Health has been doing to inquire into changes to the health system that the budget proposes. I want to go to the question of GP co-payments. I listened to AM this week, and Mr Hockey was asked about why the GP co-payment proposal was not considered prior to the election and whether that wasn’t a broken promise, because no-one was told during the election campaign that the government was going to require a co-payment to be paid but, come the budget, we find that there is a tax on going to the doctor. Mr Hockey said, 'But we promised that we would fix the budget bottom line', or words to that effect. I was surprised that the interviewer did not pick him up on that, because the budget papers show quite clearly that the funds raised by the GP tax will go to the Medical Research Future Fund.

That will not fix the budget bottom line, and that is an issue that has been canvassed by the Senate Select Committee on Health in a number of places. Not every witness to the committee, but almost all, is extremely critical of the measures in this budget that say that we will tax those who are sick and those who are poor, particularly to go to the doctor but also to get their pharmaceuticals filled and to use diagnostic imaging. We had evidence in the committee from people saying that the people who will be most disadvantaged by this, as I said, will be the sick and the poor but particularly homeless people, people who are living in rural and remote areas and people who use the services of Aboriginal medical services. There is a lot of work being done to try to ascertain the real cost that will be incurred in our Aboriginal and Torres Strait Islander community from people who defer receiving primary healthcare services. So, the GP tax, the GP co-payment, has been broadly and widely criticised for being poorly targeted and because it will add to the health burden of the country. Once again, to go back to Mr Hockey’s comment about fixing the budget bottom line: it does not, and he should know that; he is the Treasurer.

Finally, I want to go to some commentary around the disbanding of Medicare Locals. Mr Abbott said, prior to the election, that there would be no change to Medicare Locals—that the 61 Medicare Locals as they existed would be there into the future. Now we find that Medicare Locals have all been abolished; they will cease to operate at the end of June next year. We also know that the potential cost of disbanding and winding up those Medicare Locals is $120 million. Some of that money may be saved if some of those Medicare Locals transition into Primary Health Networks, but the costs are huge, and for what benefit? I say that the reason this government does not like Medicare Locals is that they have the word 'Medicare' in there. Liberals do not like Medicare. We know that. We saw that back in the 1970s when the Liberal
Party got rid of Medibank. We had to reinstate it as a Labor government when we came into power. I suggest that the reason this government is disbanding the Medicare Locals system is that they do not like the name, because the Primary Health Networks essentially do a similar job, but they will now do it over a much larger geographic area.

As a person representing particularly a regional area in the country, I express real concerns about this. The geographical area that the North Queensland Medicare Local will now cover will go from the Torres Strait Islands, from the border with Papua New Guinea, to south of Mackay and over the Great Dividing Range. It is a massive area and the health needs of those different communities are enormous. That we could have a local health service connected to local health needs over such a vast area is a fundamental design mistake, in my view. Our committee will continue to investigate the development of the primary health networks. We will continue to do the work to uncover these design mistakes that we believe—certainly Labor members believe—are inherent in the design of the primary health networks. In continuing that work, hopefully we will be able to provide some advice to the parliament about some of those issues in the short term.

To come back to the bill, I reiterate that Labor will be supporting the passage of the Dental Benefits Legislation Amendment Bill. I commend the bill to the chamber.

Senator BILYK (Tasmania—Deputy Opposition Whip in the Senate) (13:01): The Dental Benefits Legislation Amendment Bill 2014 will create a waiver provision for the Medicare Chronic Disease Dental Scheme and make a number of amendments to the operation of the Child Dental Benefits Schedule. At present, the debt waivers are proceeding under section 34 of the Financial Management and Accountability Act 1997. I am aware that the government thinks this is a slow and unwieldy process that requires unnecessary administration and processing, in both the Department of Human Services and the Department of Finance, which has resulted in the government's decision to include a specific debt waiver provision in the Health Insurance Act. This bill will make amendments to the Dental Benefits Act and the Health Insurance Act to align compliance powers and to make these powers applicable to the CDBS. It also amends both acts so that the Professional Services Review scheme can be applied to dental services provided under the CDBS.

On this side, we take very, very seriously the issue of inappropriate professional behaviour and we support the application of compliance powers as well as the operation of the Professional Services Review scheme. The previous scheme was closed from 1 December 2012 and we know that the audit activity of the CDDS detected a high rate of noncompliance with the recording requirements of dentists. As a result of this, audit activity debts were raised against dentists found to be noncompliant. Indeed, I had a dentist in my local area come to me with a number of concerns, which I progressed up the chain of command, so to speak. We are aware on this side of how important that is. As I said, we take very seriously the issue of inappropriate professional behaviour and we support the application of compliance powers as well as the operation of the Professional Services Review scheme.

The bill will amend the Health Insurance Act to create a provision that will require the Chief Executive Medicare, CEM, to waive debts raised against dentists for services provided before 1 April 2010 that had satisfied all legal requirements but had breached section 10(2) of the Health Insurance (Dental Services) Determination 2007. As I said, it will also require the CEM to waive debts for services provided after 1 April 2010 if the dentist can provide
evidence that there was an intent to comply with section 10(2) of the determination. Some dentists have already paid CDDS debts to the Commonwealth that fall under this waiver, and this bill provides for those amounts to be repaid to the dentists concerned.

The bill will also make amendments to the Dental Benefits Act 2008 and the Health Insurance Act to support the operation of the child dental benefits scheme, which is obviously a really important scheme. The child dental benefits scheme commenced on 1 January 2014 and provides two- to 17-year-olds who meet a means test with access to up to $1,000 in benefits over two calendar years for basic dental treatment. In my socioeconomic areas, we see a lot of bad dentistry in young people and these measures are needed to ensure the health of their teeth and that they are able to live a decent life. If you have bad teeth, it can lead to all sorts of other health issues and concerns. I have even known of people who have not been able to get jobs because their teeth have been in such bad condition that people did not want to employ them.

The Child Dental Benefits Schedule replaced the Medicare Teen Dental Plan and provides more comprehensive coverage through a greater range of services to a larger group of children. As I said, it is means tested, but, of course, those children really need that sort of help. The child dental benefits scheme formed part of Labor's $4.1 billion dental reform package, which was announced on 29 August 2012. The Child Dental Benefits Schedule replaced the Medicare Teen Dental Plan from 1 January 2014. This program is a really important investment in prevention. We know that oral health in children is the best predictor of our oral health as adults, and this can be of grave concern.

In addition to dental for kids, the dental reform package provides extra funding for 1.4 million additional services for adults on low incomes, including pensioners and concession card holders and those with special needs, to have better access to dental health care in the public system. Just as bad oral health in children can lead to other illnesses and health issues, so it can with adults. It is important that we do what we can to help in that area. There will be more services and more dentists in areas of most need, which are obviously outside the capital cities. Coming from Tasmania, where there is a large rural population and regional population, it is great to hear that. This package was on top of the $515 million announced in the 2012-13 budget, which included a blitz on public dental waiting lists.

I was talking earlier about the oral health of our children, and we know that it has been declining since the mid-1990s. Almost 20,000 kids under the age of 10 are hospitalised each year due to avoidable dental issues. By the age of 15, six out of 10 kids have had tooth decay, which is probably not a good sign of what our nation is doing with regard to dental health and oral hygiene. Further, 45.1 per cent of 12-year-olds had decay in their permanent teeth, and, in 2007, 46 per cent—just under half—of children aged six attending school dental services had a history of decay in their baby teeth. The issue of oral hygiene and dental health is not one that should be taken at all lightly; it is one that we obviously should be supporting and putting money into. Dental providers carry out a range of services for all people, and those services are most important. As I have said, I think this is overlooked quite a lot of the time.

This bill amends the definition of a 'dental provider' to align with the definition under the national law dealing with the registration of health professionals. Part 6, 'Provision of information', allows for information obtained under the act to be disclosed to the minister and department administering the Veterans' Entitlement Act 1986 if the disclosure is for the
The purpose of administering the Dental Benefits Act. That is because people may be eligible for dental benefits if they are receiving certain allowances paid by the Department of Veterans' Affairs.

The machinery amendments to the Dental Benefits Act include clarifying provisions related to the disclosure of protected information, allowing the delegation of ministerial powers to the secretary or SES employee of the Department of Health, amending the definition of dental provider and correcting a minor technical error in section 4. It will be interesting to see what sort of impact this has. A longitudinal survey might need to be done with regard to oral dental health and the impact that people having easier access to dentists will have on our society. I know other people wish to speak on this legislation, so I will conclude my remarks.

Senator MOORE (Queensland) (13:11): I am not going to take long in this discussion on the Dental Benefits Legislation Amendment Bill 2014, but I want to speak again on this issue around dental services. Mr Acting Deputy President Bernardi, you would remember that in this place we had considerable debate on the issues around the dental services determination bill in 2007. We also had considerable debate—and it is all on record—on concerns about the full understanding of the responsibilities of dentists involved in that program and claims that there was a lack of understanding and a lack of knowledge of the compliance requirements that were brought into place, because this was the first time that there was such a clear use of the government system for dentists. I remember making statements here about the professional needs of organisations to understand their requirements, particularly when government money was involved, and the responsibilities for people in the profession, the dental profession, and also the government departments to work through appropriately their responsibilities. I also talked about the special link that was available in that legislation, which has now passed, between the referral processes of doctors through to the dental profession to make the link that was in that legislation to ensure that the processes under the dental responsibilities met the special needs of people and that there was a genuine understanding of the need for the dental work to fulfil the requirements of the plan, as we then knew.

On our side of the chamber, we celebrated the first steps towards allowing MBS coverage for dental processes. We celebrated the availability of this scheme, because up until then there had been real concerns in the community about how they could access dental services. There was so much evidence, across the board, on dental health; evidence that was pointed out most clearly, from my point of view, in the Senate Community Affairs References Committee Inquiry into Poverty where we were looking at the whole range of issues which had impact on the community. Consistently, when we had private meetings and when we had public meetings in the community, the issues around dental health came up so strongly.

That led to a range of consultations, negotiations and the development of policy on our side but also from the government, who did listen to the concerns about appropriate dental health and the impact of dental health on people's wellbeing at all ages. Indeed, the issues that were raised through that process of consultation did not limit the needs around dental health to one particular group. It talked about the particular processes for young people, which was then picked up by the Labor scheme that came later about adolescent dental health. It looked at the particular needs of developing dental processes so that people would have timely intervention early in their lives so that they would not have the horrors of exacerbated decay and also
malfunction in dental processes, which lead to inordinate pain and inconvenience, which are lifelong.

Another particular group of people that came to see us were age pensioners and people who had had no ability in their own youth to have that intervention, and who, as they grew older, were suffering quite seriously from poor dental hygiene and poor dental health.

There was a welcoming but then, when there was an audit of the scheme at the time, we found that the simple process of making the scheme operate, the compliance issues, were not effectively being fulfilled. When the Department of Human Services did their audit—and I think Senator McLucas mentioned this—there was a high rate of noncompliance with provider reporting requirements which were clearly set out in the act. I know that there is a range of opinion but, if you reflect on what I said in this chamber at the time when we were looking at the changes in the dental scheme, I seriously believe that there is a personal responsibility for professional people and organisations to understand the rules and to work within them. Nonetheless, it was put forward by the then government that there was concern, there was a lack of knowledge and there could well have been an 'inadvertent' misuse of the program. People were unaware of their responsibilities and therefore were paid considerable money by the government for providing services under the legislation and then were found out, in effect, to have had an overpayment.

The bill before us talks about the importance of having a clearly understood waiver so that, when the overpayments are identified, there is the opportunity to put it to the people involved. There was great lobbying and advocating by the Australian Dental Association, as well as by individual dentists who visited most parliamentarians in this place to put forward their cases. There was an agreement that there would be a procedure put in place where many debts would be waived, but there were a distinct number of dental operators who did have overpayments identified and then appropriate repayment plans were put in place.

One of the issues that has come out through this bill, which is for all intents and purposes a bit of a housekeeping bill, was to change the way that the waivers and repayments would operate from what is a standard government procedure, which is the Financial Management and Accountability Act 1997—which we all know is essential reading for everybody. Nonetheless, that piece of legislation spells out how overpayments are identified and how repayments to the government are done. Minister Dutton has actually seen that and believes that this is complex and may cause undue stress and delay and therefore they are placing the procedures within the health department to ensure that that will happen. We have no intrinsic opposition to that. I think it is important to see that we look at the history of where it came from and the delegations that now operate within the health act.

I certainly hope that the amount of work that will be done developing this legislation will ensure that professionals in all areas, particularly the dental profession, will have a greater awareness of their requirements of access to Medicare payments, and will have established a stronger communication link so that there is the ability for people to check out what they are required to do before they enter into a contract—and it is a contract.

This is a contract between professionals and the government to ensure that they appropriately receive Medicare payments. My hope is that, from the problems we have had in the past, the identification has been that, perhaps, communication was not as strong as it should have been. Also there is the clear link and understanding that you just do not get
Medicare benefits because you do a service. There are individual responsibilities around the type of service you are providing and what you are required to do. In the previous scheme, that real link between appropriate referrals and the types of services covered by the act did seem to be of some concern around the lack of clarity.

The other element leading on directly from putting responsibility back into the Department of Health is the extension of the professional services review to cover dental practitioners who are involved in providing these services. It is one of those things that is self-evident. The professional services review that now operates in the medical profession allows professional consideration of the behaviour and practices of anyone within the services and, under those professional bodies, allows them the ability to check out if there are any allegations of malpractice or misuse of Commonwealth money. We know that it operates in all medical areas now if people are receiving Medicare payments. There have been some considerations around that.

The community affairs committee had an inquiry into this area about 18 months ago, actually stimulated to an extent by lobbying around Senator Abetz with concerns about the way the PSR, the Professional Services Review, operated. The core principle that came out of that discussion, which was vindicated and reinforced by the inquiry, was that there must be appropriate review. Should there be allegations of any malpractice or change of behaviour, there should be a process where that is able to be considered. This bill, amongst other things, actually ensures that activation of the professional services review, with dentists providing services under the MBS covered by the PSR, and that it is appropriate that that would be covered by this scheme.

In terms of our past experience and the investigations that we have had through the development of the wider dental scheme, we totally support the two elements of, firstly, ensuring that the waiver responsibility is back with the department so that they understand the profession and are able to work with it and, secondly, the PSR. I am not going to take the time of the chamber by talking about the importance that Labor places on an appropriate dental scheme across our country. We have made that commitment on the basis that, if you are looking at the health and wellbeing of Australians, it is absolutely critical that we acknowledge that there are needs around oral hygiene and oral health. We have a highly skilled and well-trained dental profession in our nation. In fact, it is highly regarded around the world for the training we provide. We are able, then, to ensure that we can best link the needs of the community across our whole country, not just in large capital cities, but across the whole nation, with effective and responsive services. In this area, it is absolutely essential that we look at making sure that the workforce is located where the need occurs. I see Senator O'Sullivan across the chamber and I am sure he can confirm that, when visiting regional areas in Queensland, one of the key issues that is raised all the time is access to dental services.

I will put on the record a visit I made to the central western area. I went to several significant regional towns with fully set up dental chairs and a history of having had dental professionals—dental professionals with immediate links to the local schools, the local aged-care sector and the local community. Because of workforce shortages and a reluctance of people to serve in regional areas, those chairs—that equipment, those practices—had been abandoned. As a result, people have to travel long distances to get the basic dental services we all expect, as a right, to be able to access in our own suburbs and towns.
We support this bill. There are a whole range of other housekeeping matters in the bill, but I will not refer to those.

**Senator Ryan:** Of course you won't!

**Senator MOORE:** No, I will not. I have put the issues that are of principal concern to me. If Senator Ryan were to check the record of debates on this subject, he would find that I have contributed to most of them—and the issues of credibility and professional integrity have always been central to the contributions I have made.

**Senator RYAN** (Victoria—Parliamentary Secretary to the Minister for Education) (13:24): While I note that the opposition has indicated its support for the Dental Benefits Legislation Amendment Bill 2014, we have had a couple of contributions that were a bit unexpected, given that this time on Thursday mornings is set aside for non-controversial legislation. It is tempting to address those contributions, particularly the bits on the history of dental care in Australia and the importance of dental care. I will just note in passing that it was the Howard government, when the current Prime Minister was the Minister for Health, that first put dental care on the MBS.

However, this bill is about administrative arrangements. It is finely targeted at administrative arrangements. It is not about dental care more generally. I note again that the opposition has indicated its support for this bill and I commend it to the Senate.

Question agreed to.

Bill read a second time.

**Third Reading**

**The ACTING DEPUTY PRESIDENT (Senator Bernardi)** (13:25): 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 RYAN** (Victoria—Parliamentary Secretary to the Minister for Education) (13:25): I move:

That this bill be now read a third time.

Question agreed to.

Bill read a second time.

**Marine Safety (Domestic Commercial Vessel) National Law Amendment Bill 2014**

**Second Reading**

Debate resumed on the motion:

That this bill be now read a second time.

**Senator CAMERON** (New South Wales) (13:26): Labor supports the Marine Safety (Domestic Commercial Vessel) National Law Amendment Bill 2014. All of us in this place should do what we can to avoid overregulation. It reduces productivity and it hurts jobs growth. Labor has a proud record in government of doing this. It was the Labor government that delivered a single national system of laws governing the maritime sector. This was the biggest maritime reform in a century. It eliminated duplication of laws and reduced complexity.
Through the Council of Australian Governments, COAG, Labor delivered an ambitious reform agenda. In infrastructure and transport, Labor put in place a national maritime regulator, a national heavy vehicle regulator and a national rail regulator. These three national agencies replaced 23 separate state and territory regulators. Labor's changes are expected to save business $30 billion over the next two decades.

The bill before us today follows Labor's reforms and retains the spirit of the national laws. It contains simple amendments to clarify aspects of the legislation based on the experience of its operation. The opposition will be supporting these amendments. They will allow the Australian Maritime Safety Authority to exercise discretion when considering the suspension, revocation or variation of vessel certificates. The bill also includes minor changes relating to the definition of 'defence vessels', clarifies the regulator's functions and allows for subdelegation of powers in some circumstances.

I am very pleased to have the opportunity to speak on this issue today, because it gives me the opportunity to raise some concerns about the government's fascination with red-tape reduction. Some regulations are important for ensuring the health, safety and welfare of working people all over this country. As we have recently gone through a period of privatisation in the areas of gas, electricity and water, there is a need for regulatory compliance so that the market is not just allowed to let rip in areas where workers need some protection.

These are some of the concerns I have with the government's rhetoric on red tape reduction, because red-tape reduction goes to regulation and, in many cases, regulation goes to good governance. As Professor Stephen Duckett, Health Program Director at the Grattan Institute, said:

One person's red tape is another person's legitimate protection.

This is especially the case in the maritime industry. We have seen in the maritime industry, on the docks and the wharfs of this country over many years, a lack of regulation, a lack of so-called red tape, a lack of protection for working people in this country. My concern is that the slogans that the coalition comes up with about reducing red tape could leave many Australians exposed to a lack of protection, a lack of support and a lack of a healthy and safe environment when they go to work. These are concerns that I have in relation to the government's proposals on these issues.

When you talk about maritime safety, you always have to remember where we came from in terms of safety in the maritime industry. I remember, when I was a union official in the early 1990s, the significant investigation and inquiry that went on in the parliament under the Hon. Peter Morris. The inquiry report was named Ships of shame. When you turn your mind back to some of the issues that resulted because of a lack of red tape, because of a lack of proper regulation and because of a lack of enforcement, workers were dying in the international maritime industry. But, when you go back to the nineties—it is not that long ago—the economic circumstances that prevailed at the time meant that there was huge cost-cutting going on in the maritime industry. Look at the situation now: you have arguments that you should be getting rid of regulation because it will reduce costs and it will increase productivity. I have never heard a coalition politician on their feet in this place being able to explain what productivity is, because they just mouth the platitudes. They just go on about improving productivity, and then they conflate productivity with cost-cutting—about cutting
workers' wages and conditions, and cutting regulation that protects workers when they go to work. That is the sort of increased productivity you hear from the coalition. They relate this to red tape and you see important parts of the control systems in this country pulled apart on this altar of improved productivity when it is nothing more than cost-cutting. This side of the chamber finds that an unacceptable proposition. It is totally unacceptable to just have red-tape reduction—getting rid of important protections for people in this country. When you start cutting costs, safety suffers.

In the Ships of shame inquiry, we saw that the lack of so-called red tape and the lack of regulation at the international level allowed flags of convenience to be the norm in the international shipping industry. We certainly are not arguing that the domestic maritime industry will go down this path quickly in this country, but you always have to be careful that the rhetoric does not have unintended consequences. The rhetoric of red tape reduction—getting rid of checks and balances and supports for working people in this country—is very easy to happen under the rhetoric from the coalition.

We saw with the flags of convenience that ship management and international companies flouted international conventions. They argued at the time that those conventions were merely red tape—that those conventions were regulations that were impediments to productivity and impediments to the effective operation of their business—and that the market should be just allowed to rip. So, while we support this bill, I am pleased to have the opportunity here today to draw attention to some of the consequences if we are not careful and we are not clear about what the implications could be when we remove regulation.

We had ships' masters in the early nineties coming to Australia with crews that they could not communicate with. The ship's master could not speak the same language as the crew, and some of the crews could not speak the same language as each other. We had the situation where communications went down the tube. What happens if you are in charge of a massive carrier bulk ship on the high seas during an emergency and people cannot talk to you? These are some of the reasons you need some red tape. These are some of the reasons you need regulation in a country. You simply cannot trash and sacrifice regulation on the altar of big business demands. You cannot do that. We had crews coming into this country whose quality of training was abysmal. Some of them had no training or they could not communicate with each other. They were just taken off the shore, put on a ship and were supposed to learn on the go. There was no regulation about what the training should be. There was no red tape to make sure that people were safe. This was the experience in the Ships of shame report. We had false qualifications in the industry. Qualifications were being forged.

There has been, since the Ships of shame report, progress towards dealing with many of these issues. But, if you listen to the rhetoric of the coalition, I am sure there would be some of the extremists—and there are many of them in the coalition—who argue that 'this is simply red tape gone mad', that 'it is regulation gone mad' and that 'the bosses can look after themselves; just trust big business, they will fix it all up'. I come from a background where I have experienced what happens when big business is allowed to operate without proper regulation. I have experienced what happens when red tape, which is really about looking after workers' rights, is removed. I have seen this happen, and I do not think we can go back to that. That is why I am raising, in my contribution, the need—even though we support this bill—to be careful about this approach on regulation. In the 1990s, the Ships of shame inquiry,
which was a joint coalition and Labor inquiry, found that there was no red tape in place and there was no regulation in place to make sure that some of these crews were fed. They were denied food on some of these ships, they were bashed up on these ships, because it was a free-for-all. Big business was doing what big business wanted to do. There was no red tape and no regulation applying. So you need red tape and regulation in specific circumstances.

Where red tape and regulation is old and antiquated, then we will have no problem dealing with those issues. When they do not impede the operation of a business, then I question the need to make such a big issue of removing antiquated red tape that does not interfere with anything and is wasting the time of the parliament. Some of these maritime ships had two pay books designed to deliberately deceive. The red tape and regulation was being ignored. There was accommodation that was absolutely atrocious on these ships. There was a lack of washing facilities. The crew could not even wash. I say, if it is a bit of red tape to make sure that someone on a ship can wash, then that is red tape that is worth having. That is regulation worth having. If it is red tape to say that there has to be a healthy and safe working environment, then that is red tape and regulation worth happening. If there is red tape that says that maritime crews have to have a reasonable standard of medical care, in my view, that is red tape that is worth having. These are issues that we have to be careful about.

In supporting the bill, it has given me the opportunity to provide some balance to this argument that all red tape is bad, because all red tape is not bad. I am sure that this afternoon, when we get down to looking at some of the bills that are going to keep us here probably all night, there will be plenty of red tape in those bills. I have not seen the bill to any great degree so far, because it was a secret until this morning, but I am sure that no-one will stand up here and say, 'There will be no red tape in relation to the bills that will be before the Senate this afternoon,' because red tape, protections and regulation are part of a democratic society. I agree that one person's red tape is another person's protections. Protections should always be at the forefront; not an ideology that says, 'All red tape is bad, because the IPA has said it is bad.' The troglodytes in the Institute of Public Affairs say: 'This is bad. Everything will be great if you just let the market rip. If there is no red tape, if there are no protections, the market will look after it and the bosses will look after you. Don't worry; everything's going to be okay, because the market will look after you.' I have never believed that nonsense. I do not think anyone with any common sense believes that. It is only the ideologues on the other side. It is only the extremists on the other side that believe these things. When we are looking at red tape reduction, always be aware that there are two sides to red tape, and one side to red tape is the protection of people's rights, the protection for workers to go to work and come home safe. If that is red tape, so be it. That is an important component of red tape. That is regulation working effectively. We cannot have the extremists in the coalition simply picking away, initially, then ripping and tearing away proper regulation in this country. People will lose their lives if red tape and proper regulation are not there in the area of health and safety.

It was the trade union movement that had to argue with the previous Howard government to actually do something about asbestos. We have had 'ships of shame' full of asbestos coming to this country. All we hear from the coalition is that you must get rid of red tape and regulation. This is ideology gone mad, on the other side. We support this bill, we support getting rid of regulation but we support the rights of workers having decent safeguards through red tape or regulation when required. (Time expired)
SENATOR RYAN (Victoria—Parliamentary Secretary to the Minister for Education) (13:46):
While it is tempting to respond to Senator Cameron’s paean for the socialism of Britain in the 1950s and the history of inquiries into international shipping—and indeed his love of red tape!—this bill is in fact about marine safety domestically. I note the Labor Party is supporting it and I commend the bill to the Senate.

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

Senator Sterle: Mr Acting Deputy President, I looked across at the parliamentary secretary, Senator Ryan, and I thought he was going to make a contribution, not close the debate, and I was listed to speak on the bill.

The ACTING DEPUTY PRESIDENT: The minister has closed the debate on the second reading, but you can always speak on the third reading.

Question agreed to.

Bill read a second time.

Third Reading

The ACTING DEPUTY PRESIDENT: Senator Sterle, are you seeking the call?

Senator Sterle: No, thank you, Mr Acting Deputy President.

Senator RYAN (Victoria—Parliamentary Secretary to the Minister for Education) (13:47):
I move:
That this bill be now read a third time.

Question agreed to.

Bill read a second time.

Albury-Wodonga Development Corporation (Abolition) Bill 2014

Second Reading

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

Senator CAMERON (New South Wales) (13:48): I am pleased to speak today on the Albury-Wodonga Development Corporation (Abolition) Bill 2014. I was glad to read the remarks of the Independent member for Indi in the other place on this bill. The member for Indi, as the local member for the Wodonga half of Albury-Wodonga, gave a strong contribution to the debate on this bill in the other place. I believe that bears some acknowledgement here.

I am pleased to draw on that contribution in making my remarks here in the Senate this afternoon. The member for Indi drew the attention of avid listeners to parliament and readers of Hansard to a book by Bruce Pennay entitled The Experiment: Imagining the Albury-Wodonga National Growth Centre. In this book, Pennay states:

On its instigation in 1973, the Albury-Wodonga National Growth Centre experiment was hailed as a novel and imaginative project.

It was a pilot scheme that was extended to influence the urban settlement patterns right around Australia. It was a "bold venture", a brave attempt, to solve a longstanding problem. It involved three governments working cooperatively on an "exciting adventure".
Today we have before the Senate legislation to abolish the Albury-Wodonga Development Corporation. Before we vote on this legislation, it is important to take the time to look back at the history and the purpose of the Albury-Wodonga Development Corporation, as the member for Indi did in the other place. When we look at Albury-Wodonga, you have only to look at the Whitlam legacy. That is the reality.

It is something of a coincidence that, in this week, when the Senate began by expressing its condolences following the passing of former Prime Minister Gough Whitlam AC, QC we find before us a piece of legislation that has at its heart the legacy of the Whitlam government. The concept of regionalism and to build significant regional centres was part of the legacy and vision of the Whitlam government from the beginning. Gough Whitlam first raised the idea for the regional development projects in Albury in a speech he gave in Sydney in 1969. He then visited Albury in 1970 for a Rotary conference. I understand that he stayed at the Travelodge that night and later boasted that the speech took him from the Travelodge to The Lodge. It then formed part of his Blacktown campaign speech in 1972, in which he said:

A national government which cuts itself off from responsibility for the nation's cities is cutting itself off from the nation's real life. A national government which has nothing to say about cities has nothing relevant or enduring to say about the nation or the nation's future. Labor is not a city-based party. It is a people-based party, and the overwhelming majority of our people live in cities and towns across our nation.

He went on:

A Labor Government will have two over-riding objectives: to give Australian families access to land and housing at fair prices, and to preserve and enhance the quality of the national estate—

the environment. Then he said:

We will set up a Commonwealth-State Land Development Commission in each State to buy substantial tracts of land in new areas being opened up for housing and to lease or sell at cost fully serviced housing blocks …

Today, the parliament is dealing with the legacy of that 1972 campaign speech. Upon taking government, a new department and a new function for the Commonwealth was established. We had a Department of Urban and Regional Development, with the great Tom Uren as the minister. That started the Albury-Wodonga National Growth Centre Project in 1973, which ultimately became the Albury-Wodonga Development Corporation, on 21 May 1974, with the hope for it to be a model for similar schemes elsewhere. The reform program for regional development produced results through direct grants to local government bodies around Australia. Grant programs included were for flood mitigation, urban renewal, leisure and tourism facilities, and for building sewerage systems in unserviced urban areas.

Under the Department of Urban and Regional Development, the Albury-Wodonga Development Corporation was established on 21 May 1974. Out of this we not only found a vision for Albury-Wodonga but found a Commonwealth government taking responsibility for entirely new areas of policy that the Commonwealth had previously not touched. Today, we not only put down a marker for the great growth that occurred in Albury-Wodonga but also acknowledge that the principles of regionalism and the principles of obligations to people who live in cities and suburbs are something that would be a function of the Commonwealth of Australia.

I note that in The Border Mail on 21 October 2014 Howard Jones wrote:

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CHAMBER
Five weeks after man first landed on the Moon, Gough Whitlam proposed something that ultimately turned out to be even harder to achieve — a huge new combined city for Albury-Wodonga.

Jones went on to write that Whitlam:

… started the Albury-Wodonga National Growth Centre project in 1973, four years after raising the idea in a speech in Sydney when he was still the federal opposition leader. On April 17, 1970, he visited Albury for a Rotary conference to expound his theories for regional development, drawing on the views of the then-head of Uncle Ben's, Wodonga, Dr Henry Nowik.

Time precludes me from going further into the memories of the great Gough Whitlam on this issue. Labor supports this bill, but we have to always remember the legacy of Labor in bringing about regionalism—looking after the regions in this country. We support the bill.

Senator RYAN (Victoria—Parliamentary Secretary to the Minister for Education) (13:55):

On this occasion, I will agree with Senator Cameron and note the irony in some ways of this bill being introduced into this place in the same week that the condolences were held for the former Prime Minister. I think the Bills Digest came out of the House of Representatives the day after the former Prime Minister passed away. Needless to say, I would probably have a different view of the history of this particular corporation and the expansion of Commonwealth authority into an area for which it had no constitutional authority. I do accept, however, his comments that it was the particular passion of the former minister, Mr Tom Uren. But those days, in many ways, have passed. In that case, I commend the bill to the Senate.

Question agreed to.

Bill read a second time.

Third Reading

The ACTING DEPUTY PRESIDENT (Senator Williams) (13:56): 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 RYAN (Victoria—Parliamentary Secretary to the Minister for Education) (13:56):

I move:

That this bill be now read a third time.

Question agreed to.

Bill read a third time.

Social Services and Other Legislation Amendment (2014 Budget Measures No. 6) Bill 2014

Second Reading

Debate resumed on the motion:

That this bill be now read a second time.

Senator CAMERON (New South Wales) (13:57): I am pleased to rise to speak on the Social Services and Other Legislation Amendment (2014 Budget Measures No. 6) Bill 2014. Social security has been getting a pretty bad rap from the coalition. Trying to attack ordinary Australians who have fallen on hard times, coming after ordinary Australians, is just an absolute disgrace. There is nothing more disgraceful in politics than to watch the coalition attack, through its budget process, the proud history of social security in this country. This is a
coalition that is ripping away at the heart of the protections for ordinary people in this country. This is a coalition that does not care about the pensioners. This is a coalition that does not care about decent rights for people in this country. This is a coalition that will pay a heavy price for the lies and the deceit that it has foisted upon this country. This is a coalition that would take away pension rights in this country, that would force people to work until they were 70—to work till they drop.

This is a coalition that is a reprehensible mob. They do not care anything about the future and the future of their electorates. They only care about looking after the people who put the money in their back pockets and hand it over to the coalition for their elections. The people who hand over the brown paper bags in the front of their Bentleys are the people the coalition look after. You only have to look at the legislation that has been brought up in this place. It is legislation that is all about looking after the miners, looking after the banks, looking after big business and screwing ordinary working people in this country. What a shameful mob you are—up there every day after ordinary working people's rights, after the pensions of Australians. That is what you are about—

The PRESIDENT: Senator Cameron, to the chair; not across the chamber.

Senator CAMERON: I apologise, Mr President.

The PRESIDENT: And, Senator Cameron, time has now expired for your contribution. It being 2 pm, we move to questions without notice.

QUESTIONS WITHOUT NOTICE

Fuel Prices

Senator JACINTA COLLINS (Victoria) (14:00): My question is to the Minister representing the Prime Minister, Senator Abetz. I refer to the comments by the Premier of Victoria, Mr Napthine, on the Abbott government's petrol tax ambush. He says:

This is a situation where any increase in the cost for fuel for Victorian families and Victorian business will hurt those families and businesses …

He also says:

… these sorts of things should go through the proper parliamentary processes.

Does the minister agree with the Premier of Victoria?

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): Of course, I support the Premier of Victoria, and everybody on this side hopes that he gets re-elected in the state election that will be occurring next month. The Premier of Victoria has shown the sort of leadership that this country so desperately needs. Premier Naphthine is in juxtaposition to the Leader of the Opposition over there who is in lockstep with the CFMEU. So, do I support the Premier of Victoria? Yes, I do.

In relation to the issue of fuel tax, I fully agree with Premier Naphthine that these matters should go through the proper parliamentary processes because that is exactly what is happening. If the honourable senator asserts that this is not going through the proper parliamentary processes, she might like to cast her mind back to what Labor did with the alcopops tax. It is exactly the same process, and it will allow the parliament to have a say and determine whether or not they will ultimately support this proposal. I remind honourable
senators opposite that none other than a former Labor cabinet minister who rejoices in the name of Dr Craig Emerson fully supports the indexation of fuel tax. Indeed, former Labor Prime Minister Paul Keating said exactly the same.

Do we as a party that is renowned for lower taxes take any delight in having to take these steps? No, we do not. Why are we taking these steps? It is because of the absolute profligacy of the former finance minister that now sits here as the Leader of the Opposition, an opposition which bankrupted this nation, and it is because we have to get the budget back into the black. (Time expired)

Senator JACINTA COLLINS (Victoria) (14:03): Mr President, I ask a supplementary question. Do I take it, Minister, that we just have, like Mr Abbott, pre-election rhetoric on this issue from the Victorian Premier? I also refer to Victorian minister Mr Wells who says that 'the actual facts behind the actual cost to Victorians is most unfortunate'. What is the actual cost to Victorians of the Abbott petrol tax hike?

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): The people of Victoria—and, indeed, the people of Australia—can make a decision about what the actual cost of Labor has been to them. One thousand million dollars is being borrowed as we speak to pay the interest on the borrowings to date, courtesy of Labor. That is the Labor legacy. In trying to fix that unholy financial mess, we have had to make some tough decisions. The fuel tax, and I am sure the Minister for Finance—

Senator Moore: Mr President—

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

Senator Moore: It is on direct relevance. We have 26 seconds left in the minister's answer, and we have not got to the direct cost to Victorians of the petrol tax.

The PRESIDENT: The minister was asked two parts in the question. He has got 26 seconds remaining.

Senator ABETZ: As I was about to say, in comparison to the $1,000 million a month which is being borrowed to deal with Labor's legacy, we have a 40c a week fuel tax on the average family's use of 50 litres of petrol per week. That is the juxtaposition: 40c from this side, $1,000 million per month from that side. (Time expired)

Senator JACINTA COLLINS (Victoria) (14:05): Mr President, I ask a further supplementary question. Minister, won't Victorian families now have to pay more for petrol each time they go to the bowser as a result of yet another broken promise from this Abbott government?

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 reject the broken promise bit. Will Victorian families and, indeed, all Australians have to pay more at the petrol bowsers? The answer is yes. The next question is: why? The reason we are doing this is to fix up the mess that Labor bequeathed us. If the Victorian people were to elect a Labor government next month they would be left in the same mess because Labor never learns the lesson of fiscal responsibility and economic responsibility. The Liberal and National parties are the parties of low tax. So we come to this with a very heavy heart. But we do understand the imperative of reducing the indebtedness of our nation. We are willing to
tell the people that taxes need to be raised. You defer the taxes by borrowing and expect us to pay it back. We will. We will do the job. *(Time expired)*

**Indigenous Employment**

**Senator O'SULLIVAN** (Queensland—Nationals Whip in the Senate) *(14:07)*: My question is to the Minister for Indigenous Affairs, Senator Scullion. Will the minister update the Senate on the government’s commitment to provide meaningful employment for Indigenous people which also benefits the environment?

**Senator SCULLION** (Northern Territory—Minister for Indigenous Affairs and Leader of The Nationals in the Senate) *(14:07)*: I thank the senator for the question. The Working on Country Indigenous ranger program was a coalition government initiative commenced in 2007, and I would like to acknowledge the fact, and thank those opposite for continuing this good program during their term of government. Through the Indigenous ranger program, this government is delivering on the commitment to provide meaningful employment and training opportunities to Indigenous people that reflect the Indigenous aspirations and values of caring for land and sea. Their work is instrumental in protecting and conserving threatened species, marine ecosystems and cultural places, and is also primary in addressing environmental threats. That is why this government has brought the Working on Country program into the Indigenous Affairs portfolio. We have prioritised this program, as it is much more than an environmental program—it is an employment program that will deliver training and jobs for Aboriginal and Islander people and build longer-term employment outcomes in these communities.

Under this government, there are 764 Indigenous rangers employed in 105 ranger teams across the country. This well exceeds our commitment to have over 730 rangers trained and employed by June 2015. The expansion of Working on Country in the Northern Territory was a targeted initiative under the Stronger Futures in the Northern Territory jobs creation package to deliver 50 new Indigenous ranger positions by 2015-16. I am pleased to report to the parliament: this target has already been exceeded, with a current total of 53 positions.

**Senator O'SULLIVAN** (Queensland—Nationals Whip in the Senate) *(14:09)*: Mr President, I ask a supplementary question. Will the minister advise the Senate of the powers Indigenous rangers have to ensure compliance with environmental management programs?

**Senator SCULLION** (Northern Territory—Minister for Indigenous Affairs and Leader of The Nationals in the Senate) *(14:09)*: The coalition government's Dugong and Turtle Protection Plan was an election commitment aimed at strengthening the compliance and enforcement powers of Indigenous rangers in North Queensland and the Torres Strait. The specialised Indigenous ranger program was created to provide full-time Indigenous compliance officers in the Great Barrier Reef Marine Park Authority and in the Torres Strait Regional Authority. In addition, 20 Indigenous rangers will receive nationally accredited compliance training by the Great Barrier Reef Marine Park Authority. Upon successful completion of the training, the Indigenous rangers will be considered for appointment as marine park inspectors in the Great Barrier Reef Marine Park, and I expect those appointments to be made. This program model could enable other Indigenous rangers to be appointed as compliance officers and undertake on-ground actions being tied into the relevant existing compliance framework and management regime. This will end the disparity where an
Indigenous ranger somehow is different from some other sort of ranger because they lack compliance powers.

Senator O'SULLIVAN (Queensland—Nationals Whip in the Senate) (14:10): Mr President, I ask a further supplementary question. I thank the minister for his answers. Can the minister provide the Senate with an example of work being carried out by Indigenous rangers to protect endangered species?

Senator SCULLION (Northern Territory—Minister for Indigenous Affairs and Leader of The Nationals in the Senate) (14:10): The black-footed rock wallaby, known as warru, is an important creature in the culture of the Anangu people who inhabit the remote areas of South Australia known as the APY Lands. In 2008, Anangu elders, scientists and rangers embarked on a rescue mission to protect one of South Australia's most endangered species, the warru. Ten Indigenous warru rangers are involved in monitoring warru survival rates, in predator control and in fire-management activities. The project involves the management of a 100-hectare predator enclosure north of Pukatja which serves as a hardening-off site for captive-bred warru, making sure that they are ready prior to their release into the wild. So rangers not only focus on the recovery of this species and the maintenance of their very important habitat but also run activities aimed at educating young Anangu about caring for country and about maintaining their culture.

Defence Procurement

Senator GALLACHER (South Australia) (14:11): My question is to the Minister for Defence, Senator Johnston. I refer the minister to reports that ASC in Adelaide will be prevented from tendering for the future submarine project. I remind the minister about his widely-criticised decision to exclude Australian companies from participating in the tender for Navy supply ships, sending Australian jobs overseas. Can the minister confirm that ASC will be prevented from bidding for this vital national Defence project?

Senator JOHNSTON (Western Australia—Minister for Defence) (14:12): Given that anybody, anywhere in the world, can make, to the Defence department, an unsolicited offer to do any work that is clearly needed by Australia and the Defence department, your question is not only incongruous but one that ignores the way we do our business. I have said to you that there will be a proper first- and second-pass process. For you to ask me who is going to be guaranteed a right to tender is clearly a commercial-in-confidence matter that I am not going to get into.

Senator Conroy: Then tell the PMO to stop leaking against you!

The PRESIDENT: Order on my left.

Senator GALLACHER (South Australia) (14:13): Mr President, I ask a supplementary question. I refer to the minister's failure to confirm that Australian companies will be invited to bid for the future submarine project, and I ask the minister: will the government require foreign bidders to enter into a partnership with ASC or propose options to build Australia's 12 future submarines in Adelaide?

Senator JOHNSTON (Western Australia—Minister for Defence) (14:13): Given my first answer—that the government will stick to its first- and second-pass process; we will conduct a very transparent process—and that I confirmed, for about the fifth time this week, that the
government has not made any decision, that question, I think, is quite simply moot and a waste of my time.

Senator GALLACHER (South Australia) (14:13): Mr President, I ask a further supplementary question. Given the minister's failure to commit to inviting ASC to bid for Australia's future submarines and to requiring foreign bidders to build the submarines in Australia, will he at least commit to giving preference to builders or bidders who propose to build the submarines in Australia?

Senator JOHNSTON (Western Australia—Minister for Defence) (14:14): The matters contained within that question are probably in breach of the capability acquisition guidelines for the Australian government.

Senator Wong interjecting—

The PRESIDENT: Order on my left.

Senator JOHNSTON: The point is: I have said that it will be transparent and there will be the normal first- and second-pass process. Now, Senator, I do not know how many times you need to be told—

The PRESIDENT: To the chair.

Senator JOHNSTON: but the answer is obviously something that you do not want to digest. I will just keep giving the same answer to the same incongruous, stupid questions.

Senator Wong: You will leak the details to the paper, but you will not answer the question.

The PRESIDENT: Order! I remind senators to address their remarks to the chair with both the questions and the answers.

Direct Action

Senator MILNE (Tasmania—Leader of the Australian Greens) (14:15): My question is to the Minister representing the Minister for the Environment, Senator Cormann. The Minister for the Environment consistently states that he is confident that the Emissions Reduction Fund will easily meet Australia's five per cent reduction target. Given modelling by RepuTex and Sinclair Knight Merz to the contrary, has the government prepared any modelling to substantiate the minister's claims? If so, when and when will it be released?

Government senators interjecting—

The PRESIDENT: Order on my right!

Senator CORMANN (Western Australia—Minister for Finance) (14:15): If Senator Milne is concerned about the capacity of Australia to meet our emissions reduction targets, what she should look at is our track record. Our track record here in Australia is that we are actually consistently meeting and exceeding our emissions reduction targets, contrary to the performance of various jurisdictions in other parts of the world that are making very ambitious claims in relation to these matters.

Senator Milne: Mr President, I rise on a point of order. I asked the minister about modelling. Would he come to the point, please?

The PRESIDENT: The minister has over three-quarters of the time left to give his answer.
Senator CORMANN: I effectively answered the question in my first couple of words. The government absolutely stands by our assertion that we will comfortably meet the emissions reduction target that we have committed to in a bipartisan fashion. What I would also say to the Senate is that Senator Milne has absolutely no credibility when it comes to emissions reduction efforts, because Senator Milne is the leader of a party that stands for regular reductions in the real value of the excise on fuel. Senator Milne is the leader of a party that stands for a proposition that we should give money collected from big oil companies back to those big oil companies.

Senator Milne is the Leader of the Greens political party who has led the Greens from the wilderness into the political desert of oblivion. We do know that the member for Melbourne, Mr Bandt, is out there waiting in the wings to lead the Greens out of the desert and back into greener pastures. So when Senator Milne comes in here and talks about the capacity of Australia to meet emissions reduction targets, if she wants to have any credibility whatsoever in relation to these matters then the first thing she should do is indicate the support of the Greens political party for the validation of the regular indexation of the excise on fuel that has been announced by the government in the budget and was initiated this week.

Senator MILNE (Tasmania—Leader of the Australian Greens) (14:17): Mr President, I ask a supplementary question. I thank the minister for confirming that there is no modelling and no evidence base for the minister's claims. The Prime Minister has said for three years, 'Axe the tax.' Given that a baseline and credit scheme is a tax, does the government now concede that it is introducing a carbon tax or is it a sleight of hand? And is it the case that the government will never, ever require the big polluters to pay a penalty?

Senator CORMANN (Western Australia—Minister for Finance) (14:18): No amount of verballing by Senator Milne will change the answer I gave to the first question. The government has delivered on the commitment that we made to the Australian people at the election. We have successfully scrapped the carbon tax, which is very good news for families and businesses across Australia. It will help ensure that we can build a stronger, more prosperous economy and become more competitive internationally again.

Furthermore, what we have also indicated in the lead-up to the last election and the election before that is that we would seek to achieve our emissions reduction target by providing positive incentives to businesses and individuals across Australia to do the best they can to help us meet that emissions reduction target. We are doing that through a market based mechanism—the Emissions Reduction Fund—through which we will tender for the best-value opportunities to achieve emissions reductions across Australia. It is a great day for Australia today, because today we will give practical effect to that. (Time expired)

Senator MILNE (Tasmania—Leader of the Australian Greens) (14:19): Mr President, I ask a further supplementary question. There is no confirmation about the modelling, so I will try again. Did the minister agree with the Minister for Communications, Malcolm Turnbull, when he said:

Having the government pick projects for subsidy is a recipe for fiscal recklessness on a grand scale … industry and businesses attended by an army of lobbyists are particularly persuasive and all too effective at getting their sticky fingers into the taxpayer's pocket.

Senator CORMANN (Western Australia—Minister for Finance) (14:20): The only fiscal recklessness that we have experienced in recent days is the fiscal recklessness of Senator
Milne, the current Leader of the Greens, who is suggesting that she wants to facilitate a windfall for big oil companies. We know that the current Leader of the Greens is very keen to ensure that additional revenue is collected from people across Australia who are purchasing fuel at the fuel pump. Senator Milne is very keen to ensure that that money is not invested in productivity-enhancing infrastructure and is not invested in ensuring that we can grow a stronger, more prosperous economy so that people across Australia can get ahead. Senator Milne wants to ensure that it goes back into the pockets of big oil companies. When Senator Milne, the current Leader of the Greens, comes into this chamber trying to sanctimoniously lecture us, she should first consider the position that she is promoting in relation to these matters. (Time expired)

Defence Personnel

Senator CONROY (Victoria—Deputy Leader of the Opposition in the Senate) (14:21): My question is to the Minister for Defence. I refer the minister to his answer yesterday when he claimed that he had no power to intervene on the government's decision to cut the real pay the Australian Defence Force personnel. Does the minister stand by this claim, despite telling Senate estimates last week that he does have a role under the Defence Act 1903? And I quote: 'The Minister for Defence has a role. That is section 58B.' Will the minister now correct the record? I seek leave to table section 58B and Hansard from last week in Senate estimates.

Leave granted.

Senator JOHNSTON (Western Australia—Minister for Defence) (14:22): For the benefit of Senator Conroy, part 3A of the act that he talks about establishes a scheme whereby that remunerations, allowances and benefits afforded to members of the Defence Force are to be determined by the minister under section 58B. The minister may make a determination under section 58B in relation to, among other things, remuneration. But if the senator had the vaguest capacity to read a piece of legislation he would know that, under section 58H, if the matter goes before the Defence Force Remuneration Tribunal the minister, in 58B, has no role. Of course, given that the shadow minister's performance in managing various projects in the past, it is obvious that he cannot, even after many years in this place, read a simple statute. He is a senator who cannot read the law. If I take you to 58H(14), it simply sets it out. I am happy to further spoonfeed the shadow minister on the fundamentals of the way the system works, but I fear that I will be wasting my time.

Senator CONROY (Victoria—Deputy Leader of the Opposition in the Senate) (14:23): Mr President, I ask a supplementary question. I again refer the minister to his answer yesterday, when he claimed that he also has no powers under section 58H of the Defence Act when it comes to ADF pay. Isn't it the case that section 58H specifically allows the minister to request the Defence Force Remuneration Tribunal to reconsider its determinations? Minister, will you again correct the record and commit to use these powers to request a— (Time expired)

Senator JOHNSTON (Western Australia—Minister for Defence) (14:24): This is the point that I make: the minister referred to in 58H is not me. In this instance it is the minister for state. If you knew how it worked, if you understood the administrative arrangements order made in December, which is exactly the same as that made by the Labor Party back in May of the same year, it sets out that it is a different minister.
Opposition senators interjecting—

The PRESIDENT: Pause the clock. Order! Minister, you have the call.

Senator JOHNSTON: I do not know what more I need to do other than to conduct a tutorial for the shadow minister. I am happy to do that, but, again, I think I will be disappointed as to his capacity to digest the legislation.

Senator CONROY (Victoria—Deputy Leader of the Opposition in the Senate) (14:25): Mr President, I ask a further supplementary question. I again refer the minister to his answer yesterday, when he claimed that the head of the Returned and Services League gave the opposition notes to ask questions at Senate estimates about ADF pay. I can inform the Senate that the shadow minister for veterans' affairs has been in contact with the head of the RSL this morning, and he has confirmed that this claim is simply not true. Will the minister now, again, correct the record and acknowledge that his claims and remarks yesterday about the RSL in the Senate were wrong?

Senator JOHNSTON (Western Australia—Minister for Defence) (14:25): I have spent a lot of time with a lot of people, Senator Conroy, and when they talk about your performance in Senate estimates they are clearly indicating a huge degree of disappointment: no questions about submarines, a cursory question about defence, even though people out there are coaching you. I have to tell you, you need to do a lot better.

The PRESIDENT: Direct your comments to the chair, Senator Johnston. Have you concluded your answer, Minister?

Senator Moore: Mr President, I was on my feet before Minister Johnston—

The PRESIDENT: Senator Moore, a point of order?

Senator Moore: Mr President, I was on my feet before the minister completed his answer, and my point of order is just to say that the minister got nowhere near the question and that there is no apology to the RSL on record.

Law Enforcement

Senator LAMBIE (Tasmania—Deputy Leader and Deputy Whip of the Palmer United Party in the Senate) (14:26): My question is to the Minister representing the Prime Minister, the senator from Tasmania, Senator Abetz. Mr President, with your permission and with leave from the chamber I would like to table a photograph that shows myself standing in front of the Hobart chapter of the Rebels motorcycle gang headquarters.

The PRESIDENT: Leave is not granted, Senator Lambie.

Senator LAMBIE: The photograph shows the large outlaw motorcycle gang headquarters, which apparently displays the club's insignia, featuring the one per cent symbol, which indicates that they brazenly participate in criminal activities, including drug dealing. The photo also shows a Tasmanian schoolyard that the outlaw motorcycle gang headquarters overlooks. Can the minister explain why he and other members of his Liberal-National parties have allowed a gang of drug dealers to set up headquarters opposite a Tasmanian primary school?

The PRESIDENT: I will ask the minister to address elements that do affect his portfolio or that of the Prime Minister.
Senator ABETZ (Tasmania—Leader of the Government in the Senate, Minister Assisting the Prime Minister for the Public Service and Minister for Employment) (14:27): When the honourable senator started asking me about outlaw motorcycle gangs I thought I was going to get a question about the CFMEU, but we might be able to deal with that a bit later on in question time. In relation to the question that the honourable senator asks, I can indicate to her that, rightly or wrongly, Australia rejoices in three tiers of government, and state and local government has a lot of responsibility in relation to planning and allowing certain activities to occur on certain premises. I for one—I am not sure that it is necessarily government policy—would not necessarily want to see us getting too involved in detailed planning decisions as to where things are allowed to be located—near schools, next to schools et cetera. That is the clear responsibility of the state government and, in this case, the Hobart City Council. So I would respectfully request and suggest to the honourable senator that she should make those representations not to Canberra but to the state parliament in Hobart and to the new Lord Mayor of Hobart, Alderman Sue Hickey, whom I congratulate on her election.

Senator LAMBIE (Tasmania—Deputy Leader and Deputy Whip of the Palmer United Party in the Senate) (14:29): Mr President, I ask a supplementary question. Now that the minister has stopped tap-dancing, I refer the minister to his excuses. Does the minister agree that he must take some responsibility for the harm and deaths caused by terrible drugs like ice because he is a member of a political party that has turned a blind eye to this law and order crisis and allowed outlaw motorcycle gangs to prosper in my Tasmania?

The PRESIDENT: Again, Minister, I would ask you to address any components of that question that may relate to your portfolio or that of the Prime Minister.

Senator ABETZ (Tasmania—Leader of the Government in the Senate, Minister Assisting the Prime Minister for the Public Service and Minister for Employment) (14:30): Mr President, I have been called many things during my time in this Senate, but a tap dancer—I hope not.

In relation to the scourge of ice, I would like to think that all of us in this chamber would be in agreement with the honourable senator that ice is a substance that is destroying hundreds of thousands of lives right around Australia, particularly in Tasmania—the home state of the senator, the President and myself—and especially, from recent reports, on the north-west coast of Tasmania. Therefore, the honourable senator can be assured that, with the Attorney and Minister Keenan, we are doing everything we can through border protection, Customs, et cetera, to ensure that the importation of drugs into this nation is limited. Indeed, the manufacturing of drugs within this nation is limited—(Time expired)

Senator LAMBIE (Tasmania—Deputy Leader and Deputy Whip of the Palmer United Party in the Senate) (14:31): Mr President, I ask a further supplementary question. At least Minister Abetz and I actually agree on something. So will the minister join with me and help to introduce laws into this place which will give the parents of children—those 18 and under—who become hooked on highly addictive drugs like ice the legal right to involuntarily detox their children of this dreadful drug?

Senator ABETZ (Tasmania—Leader of the Government in the Senate, Minister Assisting the Prime Minister for the Public Service and Minister for Employment) (14:31): In fairness, I would have to look at that question exceptionally carefully; but, having said that, anything we can do to stop people getting involved with a drug needs to happen. That is why, as a
conservative, my approach to these things is absolute zero tolerance to drug taking but also a compassionate approach to the victims. To get people off drugs is something that one would hope everybody in this chamber would be agreed on. I am not sure that it is necessarily going to be successful if you try to get somebody off drugs involuntarily. You have got to convince the person first that they have got a problem from which they need to be released. I do not pretend to be an expert in that area. Suffice to say that anything we can do to relieve this nation and its people of the drug scourge I would be more than happy to assist with. *(Time expired)*

**Building and Construction Industry**

**Senator McKENZIE** (Victoria) (14:32): My question is to the Minister for Employment, Senator Abetz. I refer the minister to yet more reports in today’s media of criminal elements involved in the building industry in my home state of Victoria. Can the minister inform the Senate of the government's response to such reports?

**Senator ABETZ** (Tasmania—Leader of the Government in the Senate, Minister Assisting the Prime Minister for the Public Service and Minister for Employment) (14:33): I thank the distinguished Chair of the Senate Education and Employment Legislation Committee for that question. The government is deeply concerned that a company with extensive criminal links, KPI labour hire, is being awarded substantial work on the $1 billion Melbourne airport redevelopment. KPI employees have been reportedly charged with or convicted of a long list of serious offences: armed robbery, threats to kill, assaulting police and drug cultivation. The company's own director, Mr Ramsay, has an extensive criminal record including a conviction for unlawful assault. But KPI's links to the CFMEU are concerning.

According to an audit conducted by the Victorian Construction Code Compliance Unit, KPI was improperly awarded a labour hire contract as a direct result of pressure applied on the head contractor to give the job to KPI. And guess who applied that pressure on behalf of KPI, Senator McKenzie? None other than the CFMEU. Investigations also reveal that KPI employed a relative of Mick Gatto and other individuals with links to bikies. Let us be under no illusion: this is not an isolated incident. Over this past year, we have witnessed not a drop, not a trickle but a flood of disclosures revealing corruption, criminality and thuggery by the CFMEU. The culture of lawlessness identified by the Cole royal commission well over a decade ago continues to shamefully plague the building industry in Australia today. The government is wholly committed to restoring the rule of law to building sites across Victoria and the nation, and we call on the Senate to support us in that endeavour.

**Senator McKENZIE** (Victoria) (14:35): Mr President, I ask a supplementary question. Will the minister advise the Senate what steps the government is taking to restore the rule of law to building sites across Victoria and Australia in general?

**Senator ABETZ** (Tasmania—Leader of the Government in the Senate, Minister Assisting the Prime Minister for the Public Service and Minister for Employment) (14:35): I can inform Senator McKenzie that the government is taking immediate action to clean up the building industry in Victoria and indeed across Australia. Earlier this year we published an advance release of the Fair and Lawful Building Sites Code, which sets out the government's expected standards of workplace relations conduct by those contractors who want to perform work funded by the Commonwealth government. Any contractor who does not comply with the code will not be entitled to work on Commonwealth funded projects. This new code,
together with a re-established Australian Building and Construction Commission, will stamp out the worst excesses of industrial relations lawlessness in the Australian building industry and will restore the rule of law to an industry too long plagued by a culture of lawlessness.

**Senator McKENZIE** (Victoria) (14:36): Mr President, I ask a further supplementary question. Can the minister inform the Senate of any obstacles to the government's commitment to clean up the building and construction industry?

**Senator ABETZ** (Tasmania—Leader of the Government in the Senate, Minister Assisting the Prime Minister for the Public Service and Minister for Employment) (14:36): It is well known that the building industry, especially in Victoria, suffers the worse extremes of corruption, criminality and thuggery. It is therefore regrettable that the alternative Premier, Mr Daniel Andrews, refuses to condemn, and indeed even embraces, the single greatest proponent of such corruption, the CFMEU. Labor frontbencher Senator Cameron claimed last week that there was no evidence of criminal links with the CFMEU and cast aspersions on Victoria Police assistant commissioner Fontana. Labor is so desperate to defend the CFMEU that it will even stoop to using a frontbencher to attack the credibility of a police assistant commissioner. It is time for Labor—Mr Shorten and Mr Andrews—to stop riding with the outlaws. It is time for them to restore the rule of law and join us in that endeavour.

**Higher Education**

**Senator RHIANNON** (New South Wales) (14:37): I direct my question to the Minister representing the Minister for Education, Senator Payne. Considering Mr Pyne regularly states that the university sector is behind the Liberal-National plan to take $5 billion out of the higher education budget and allow massive fee increases, please detail the consultation processes your government conducted on this plan. How many of the one million students and 140,000 university staff who will be impacted by your higher education changes were consulted? Please detail who, apart from vice-chancellors and senior management, you have consulted with. Did you engage in any genuine consultation with students and staff?

**Senator PAYNE** (New South Wales—Minister for Human Services) (14:38): I thank Senator Rhiannon for her question. I do not have numbers and the finer detail here with me this afternoon, but she will of course be aware that over an extended period of time, whether it was the planning for the Commission of Audit under the chairmanship of Tony Shepherd, whether it was the Kemp-Norton review, which the minister undertook earlier in the year, or whether it was the extensive discussions held by the minister, his staff and the department before the budget, there has been very significant consultation. What is even more interesting than that are some of the comments made more recently by representative organisations and by individual universities themselves. It is hard to know where to start, because there are so many supportive comments available. Perhaps I will start with the Regional Universities Network, which considers:

… the only way that the sector can maintain quality and remain internationally competitive is through the deregulation of student fees.

Or Universities Australia, led by Belinda Robinson, of whom we spoke yesterday, which said: The peak body representing Australia's universities calls on the Parliament to support the deregulation of Australian universities with changes to the Government's proposals that will assure affordability for students and taxpayers.
Ms Robinson also:
…called on the Parliament to remove the ongoing uncertainty for students, universities and the broader
community, by moving swiftly to approve the reforms with changes proposed by Universities Australia.
The Innovative Research Universities, the IRU, in its submission to the Senate inquiry on the
bill urged:
… the Senate to pass the Bill with the necessary amendments by the end of 2014.
The Australian Technology Network of Universities welcomed the introduction of the bill
into parliament, saying:
In a move away from the centralised command and control approach, deregulation will drive diversity
and innovation across the sector—

(Time expired)

Senator RHIANNON (New South Wales) (14:40): Mr President, I ask a supplementary
question. Prior to the last election, Mr Abbott stated that there would be no cuts to education
under a coalition government. Before or after the last election did any senior coalition
representatives consult with the National Tertiary Education Union, the National Union of
Students, the Council of Australian Postgraduate Associations, the Australian Education
Union, the Australian Medical Students’ Association or the National Alliance for Public
Universities? If you did not consult, why didn’t you? Your answer shows that you have only
consulted with vice-chancellors. Was there anybody else apart from senior management?
(Time expired)

Senator PAYNE (New South Wales—Minister for Human Services) (14:41): I could
reiterate the observations I made in my earlier response in relation to the Kemp-Norton
review, the Commission of Audit, pre-budget consultations. To that I can add the
exceptionally good work done in the run-up to the introduction of the legislation by the group
under the leadership of Professor Dewar, which worked very hard for the minister on the
issues around the legislation, and also by the group led by the exceptional Chancellor of the
University of Western Sydney, Professor Peter Shergold, who in the run-up to the
introduction of the legislation similarly facilitated extensive consultation and discussion.
More importantly, I think it is a shame that Senator Rhiannon does not acknowledge the
work of our own Senate Education and Employment Legislation Committee, chaired by
Senator McKenzie, which recently reviewed the legislation. Having had a chance to look at
that report since it was tabled, I can see the extensive consultation that took place in that
process. (Time expired)

Senator RHIANNON (New South Wales) (14:42): Mr President, I ask a further
supplementary question. Is the minister aware that 79 per cent of students surveyed by
Sydney university management disagree with universities being given full flexibility to set
fees? Considering the diverse views on this issue and the enormous importance higher
education has for our economy and the nation's future, why didn't the government take the
usual path of issuing a green paper to engage widely with the community?

Senator PAYNE (New South Wales—Minister for Human Services) (14:42): The Greens
are calling for a green paper. There's a surprise! What we will have in this process is
increasing higher education spending in this country. It will go up. Let me say that that is in
stark contrast to Labor's $6.6 billion worth of cuts over almost 18 months, I think, at one
stage. If Senator Rhiannon is so interested in polls, let me refer to a poll—a survey of more
than 1,200 people across the country—commissioned by Universities Australia, which said
that 56 per cent of Australians would support the deregulation of universities if the bill
proceeded with amendments. We have indicated that that is the view of Universities
Australia.

Senator Rhiannon: Mr President, I rise on a point of order. I draw your attention to
standing order 194:
A senator shall not digress from the subject matter of any question under discussion …
There was a clear question there about the green paper. Surely it should be answered.

The PRESIDENT: There were two elements to your question. You asked, 'Are you aware …' in the first part of your question and then you asked about consultation and why the
government didn't issue a green paper. The minister has been relevant. She has 10 seconds to
go.

Senator PAYNE: In that 10 seconds let me say that the government looks forward to
constructive and positive debate on the legislation when it next comes before the chamber,
because the support the government is receiving from the sector is the most relevant— (Time
expired)

Sinodinos, Senator Arthur

Senator WONG (South Australia—Leader of the Opposition in the Senate) (14:44): My
question is to the Minister representing the Prime Minister, Senator Abetz. Can the minister
confirm that Senator Sinodinos has been the longest stood aside minister since 1901?

Honourable senators interjecting—

The PRESIDENT: Order on both sides!

Senator ABETZ (Tasmania—Leader of the Government in the Senate, Minister Assisting
the Prime Minister for the Public Service and Minister for Employment) (14:45): As a
minister that has dedicated himself to assisting the nation to rid itself of the carbon tax and the
mining tax, to getting the budget back into shape, to doing all the things that this nation so
desperately needs, it will not surprise the viewing public and honourable senators here to
learn that, no, I have not dedicated my scarce resources to such a silly, frivolous exercise as
that undertaken by the Leader of the Opposition in this place. What it shows us is how devoid
of alternative policies the Australian Labor Party actually is. That the former failed finance
minister could come in here and ask me, 'Have you bothered to check who might be the
longest stood aside minister since Federation?' is indicative of the policy bankruptcy of the
Australian Labor Party. That is why I can say to the honourable Leader of the Opposition:
well may she pursue those issues; she will not have me join her on these silly escapades,
because we are devoting ourselves to running the country in a manner that will see benefits
flow for our fellow Australians.

So, Mr President, you and honourable senators and the viewing public have been given a
wonderful window into the difference between the Labor Party's activities in this place and
what we as a coalition are doing in this place. We are getting on with the business of
government. We are fixing the ills that were put to us.

Senator Wong interjecting—
**Senator ABETZ:** We get continual interjections from the Leader of the Opposition. I wonder where she learned that behaviour from—ladies college or the CFMEU?

**Senator WONG** (South Australia—Leader of the Opposition in the Senate) (14:48): Mr President, I ask a supplementary question. Was the press release issued by Treasury last Friday in the name of Senator Sinodinos a signal of the Prime Minister's intention to reinstall Senator Sinodinos as Assistant Treasurer after parliament rises or just further evidence of the shambolic and incompetent Abbott government? You cannot even get your ministers right.

**Senator ABETZ** (Tasmania—Leader of the Government in the Senate, Minister Assisting the Prime Minister for the Public Service and Minister for Employment) (14:49): Senator Wong has done the Australian community a great favour. Just in case the Australian community was labouring under the misapprehension that this was an infallible government, she has pointed out the fact that a typographical error occurred on a media release, which I understand has since been corrected.

Do errors occur from time to time? Yes, they do. One of the distinctions between the Australian Labor Party, and the left wing of Australian politics, and the coalition side of politics is simply this: we accept that there is such a thing as human frailty, that we are not perfect and that, when errors occur, we are willing to acknowledge them, apologise for them and correct them, which is exactly what happened in relation to this administrative error.

**Senator WONG** (South Australia—Leader of the Opposition in the Senate) (14:50): Mr President, I ask a further supplementary question. Will the Prime Minister make a decision about Senator Sinodinos's ministerial future before or after the Independent Commission Against Corruption hands down its findings into the suspended minister's conduct while Chairman of Australian Water Holdings and Treasurer of the New South Wales Liberal Party?

Honourable senators interjecting—

**The PRESIDENT:** Order! Senator Wong, you have asked your question and, Senator Cormann, you are not assisting. Interjections are disorderly.

**Senator ABETZ** (Tasmania—Leader of the Government in the Senate, Minister Assisting the Prime Minister for the Public Service and Minister for Employment) (14:52): Mr President, after all that I can hardly recall what the question was, but I think I can recall that the question was, 'Will the Prime Minister decide before or after—

**Senator Wong:** Mr President, I am very happy to repeat the question, if the minister did not hear the question.

**The PRESIDENT:** I don't think he needs assistance.

**Senator Wong:** Would he like me to repeat it?

**The PRESIDENT:** I don't think he does, Senator Wong, thank you. The minister would ask if he needed assistance. Minister?

**Senator ABETZ:** I can confirm to the Leader of the Opposition in the Senate that the Prime Minister will make a decision before or after—chances are, not at the same time.

**Asylum Seekers**

**Senator REYNOLDS** (Western Australia) (14:52): I am delighted to advise that I do have a question of substance and an issue of national security that is worthy of this place and this
question time. My question is to the Assistant Minister for Immigration and Border Protection, Senator Cash. Can the minister inform the Senate of any recent reports which highlight the success of the government's border protection policies?

Senator CASH (Western Australia—Assistant Minister for Immigration and Border Protection and Minister Assisting the Prime Minister for Women) (14:53): I thank Senator Reynolds for her question. Unlike those on the other side, to quote Senator Abetz, we on this side are getting down to business, in particular in relation to this important portfolio area. What this government is doing is that the former government did not do is backing up our commitment with the increased resources and the funding that our agencies need to protect us and to assist in the creation of economic opportunities for all Australians.

Senator Reynolds referred to recent reports. I can advise the Senate that the recently released Department of Immigration and Border Protection and the Australian Customs and Border Protection Service annual reports highlight the continued dividends of the coalition's strong border protection policies. These dividends include that this government is stopping the boats. We have had but one single, solitary venture to Australia this year. This compares with the record of those on the other side, where we saw, in but one month, in excess of 4,000 people arrive.

These successful policies which, we have seen this week, continue to be vehemently opposed by those on the other side and by the Australian Greens, are freeing up resources which we on this side of the chamber are responsibly reinvesting back into this important portfolio area. What does this achieve for the Australian people? It will achieve greater compliance. It achieves greater integrity and what it ultimately gives them is strong borders.

We have also invested an additional $88 million of funding into Customs to increase screening and examination of external mail, air cargo and sea cargo. What has this delivered? It has delivered an additional 1,700 items being screened—more than those on the other did when they were in government. In the last financial year our protection officers prevented around four tonnes of drugs and precursors from reaching Australia's streets. (Time expired)

Senator REYNOLDS (Western Australia) (14:55): Mr President, I ask a supplementary question. Can the minister also advise the Senate of commitments the government has made for further support to the exceptional efforts by our men and women who are delivering our frontline border protection support?

Senator CASH (Western Australia—Assistant Minister for Immigration and Border Protection and Minister Assisting the Prime Minister for Women) (14:55): Indeed I can. The fine work of our border agency personnel is backed up by a government that actually believes in border protection. Not only that: it is prepared to fund our border protection agencies and has the resolve to do what is necessary. The savings that we are making by way of our policies are going to be reinvested back into front-line services. We are reversing the cuts of over $700 million made to our border agencies by those opposite when they were in government. Quite frankly, they ripped the guts out of customs and border protection. This government is providing an additional $150 million to our border agencies, specifically to deal with counter-terrorism activity. Counter-terrorism units have been in operation now for some time. Eighty specialised officers are either up and running or are being put into place across the network. This is what happens when you stop the boats.
Senator REYNOLDS (Western Australia) (14:57): Mr President, I ask a further supplementary question. Can the minister advise the Senate of the dividends of the government's stronger border protection policies?

Senator CASH (Western Australia—Assistant Minister for Immigration and Border Protection and Minister Assisting the Prime Minister for Women) (14:57): There are a multitude of dividends that a government can deliver to the Australian people when you have the resolve to put in place strong border protection policies. Under this government, we have saved $283 million from closing the detention facilities that were not only opened by those on the other side but, quite frankly, were overflowing because of the number of people arriving here.

There are 600 fewer children in detention today under this government than when this government came to power. That is a commitment to getting children out of detention. Could I also refer Senator Reynolds to the report of the International Organization for Migration, entitled *Fatal Journeys: Tracking Lives Lost during Migration*, which confirms that under the former government in excess of 1,200 people died at sea. Under this government in 2014 not one life has been lost.

**Women in Cabinet**

Senator MOORE (Queensland) (14:58): My question is to the Minister Assisting the Prime Minister for Women, Senator Cash. I refer to Liberal MP Teresa Gambaro's comments today, 'The situation we have now with there being only one woman in cabinet is one that cannot be allowed to continue.' Does the minister agree with Ms Gambaro?

Senator CASH (Western Australia—Assistant Minister for Immigration and Border Protection and Minister Assisting the Prime Minister for Women) (14:58): As the Minister Assisting the Prime Minister for Women, I believe that a government's commitment to women is reflected in the policies and the benefits that a government delivers. Look at those on the other side: when they had a female Prime Minister, she of course was knifed by none other than the now Leader of the Opposition in the Senate, Senator Wong. So much for standing up for the sisterhood, Senator Wong.

We have a former government that introduced a paid parental leave scheme. But what did they fail to do? They failed to include superannuation in their paid parental leave scheme. That clearly shows that it was not a government that is dinkum when it comes to delivering policies for women.

On top of that, let us look at the level of debt that the former failed finance minister—again, Senator Wong—delivered to the women of Australia. In 2007, when the former government came to office, there was zero debt. What did this government deliver by way of a policy that did not have a benefit—

Senator Moore: Mr President, I rise on a point of order on direct relevance. The minister was asked specifically whether she agreed with comments by Ms Gambaro about the number of women in the cabinet. That is the question. I would like you to draw her attention to the question.

The PRESIDENT: The minister has 44 seconds left to answer and I draw her attention to the question.
Senator CASH: I was getting to the Prime Minister, when he was the Leader of the Opposition, telling the Australian people about the shadow cabinet that we would be taking to the election and the fact that at that time it included two women. He said, 'Because of the level of debt that we are going to inherit from the other side, we believe that we require experience.' Our now cabinet has 15 ministers who were in the former Howard government ministry. What do all those ministers have in common? They paid off the former Labor government's debt from 1996 to 2007. At the end of the day—(Time expired)

Senator MOORE (Queensland) (15:01): Mr President, I ask a supplementary question. We still do not know whether the minister agrees with Ms Gambaro. Can the minister confirm that, despite being the Minister Assisting the Prime Minister for Women, the Prime Minister's office did not invite her to the launch of the widely publicised coalition female staffer network last night? Can she further inform our Senate whether the only woman in cabinet, the foreign minister, was also not on that invitation list?

Senator CASH (Western Australia—Assistant Minister for Immigration and Border Protection and Minister Assisting the Prime Minister for Women) (15:01): When the shadow minister for women in this country, who tells the Australian people that she wants to be on this side of the chamber and delivering policies that benefit women in this country, comes up with a question of that nature, I can only say, 'God help all women in this country if you make it to this side of the chamber.' Peta Credlin and the Prime Minister launched the Coalition Women's Staff Network. That is an outstanding initiative. I commend the Prime Minister on this initiative.

Senator MOORE (Queensland) (15:02): Mr President, I ask a further supplementary question. No invitation then, Minister? I refer to the foreign minister, who said:
Should there be any vacancies, I will certainly be pushing for greater female representation in cabinet.

Senator Bernardi: Mr President, I rise on a point of order. Throughout question time, the Labor Party have got up and raised a number of questions in which they have purported to have quoted individuals. I think it is incumbent upon them to determine where the quotes have been drawn from, because we cannot take at face value what they tell us.

The PRESIDENT: There is no point of order.

Senator MOORE: My direct quote in my further supplementary question was from the foreign minister. She said as recently as yesterday:
Should there be any vacancies, I will certainly be pushing for greater female representation in the cabinet.

Will the minister be joining the foreign minister in this important push?

Senator CASH (Western Australia—Assistant Minister for Immigration and Border Protection and Minister Assisting the Prime Minister for Women) (15:03): I delight in being the Minister Assisting the Prime Minister for Women. Those on the other side of the chamber are all talk and absolutely no action when it comes to delivering for women, unless it is putting up a female Prime Minister and then knifing her and taking her out, unless it is putting in place a PPL scheme that does not include superannuation, unless it is leaving every woman and child in this country—

Senator Moore: Mr President, I rise on a point of order. Again, my question referred to the stated comments about the need for more women in the cabinet. I am seeking a response
from the minister as to whether she agrees with this policy position as stated by the foreign minister.

The PRESIDENT: Minister, you have 30 seconds remaining to answer the question.

Senator CASH: As I was saying, I delight in being the Minister Assisting the Prime Minister for Women because it means that I can work with each and every one of those on this side of the chamber to ensure that we know what the women and girls in this country need. In relation to the foreign minister, she has done more on raising the issue of gender equality—

Senator Moore: Mr President, I rise on a point of order, again, on direct relevance. You did draw the attention of the minister to my question. It was about a policy position on having more women in cabinet. You did draw the minister's attention to the question. We now have eight seconds left and I would like to hear an answer.

The PRESIDENT: Thank you, Senator Moore. As you rose to your feet, I did hear the minister saying, 'In relation to the foreign minister,' and then she was interrupted. Minister, you have eight seconds.

Senator CASH: In relation to the foreign minister, I think she is now recognised internationally as being one of the best foreign ministers this country has ever seen when it comes to raising gender equality on an international scale. *(Time expired)*

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

BUSINESS

Days and Hours of Meeting

Senator ABETZ (Tasmania—Leader of the Government in the Senate, Minister Assisting the Prime Minister for the Public Service and Minister for Employment) (15:06): I seek leave to move government business notice of motion No.1.

Leave not granted.

MOTIONS

Suspension of Standing Orders

Senator ABETZ (Tasmania—Leader of the Government in the Senate, Minister Assisting the Prime Minister for the Public Service and Minister for Employment) (15:06): Pursuant to contingent notice standing in my name I move:

That so much of standing orders be suspended as would prevent me moving a motion to provide for the consideration of a matter, namely a motion to give precedence to a motion relating to the days of meeting and routine of business.

I move:

That the question be now put.

The PRESIDENT: The question is that the question be now put.
The Senate divided. [15:11]
(The President—Senator Parry)

Ayes .................47
Noes ...................21
Majority.............26

AYES
Abetz, E
Birmingham, SJ
Bushby, DC (teller)
Cash, MC
Day, R.J.
Edwards, S
Fifield, MP
Heffernan, W
Lambie, J
Leyonhjelm, DE
Macdonald, ID
Mason, B
McKenzie, B
Muir, R
O'Sullivan, B
Payne, MA
Rhiannon, L
Ronaldson, M
Ryan, SM
Seselja, Z
Sinodinos, A
Waters, LJ
Williams, JR
Xenophon, N

Bernardi, C
Brandis, GH
Canavan, M.J.
Colbeck, B
Di Natale, R
Fawcett, DJ
Hanson-Young, SC
Johnston, D
Lazarus, GP
Ludlam, S
Madigan, JJ
McGrath, J
Milne, C
Nash, F
Parry, S
Reynolds, L
Rice, J
Ruston, A
Scullion, NG
Siewert, R
Wang, Z
Whish-Wilson, PS
Wright, PL

NOES
Bilyk, CL
Cameron, DN
Conroy, SM
Faulkner, J
Ketter, CR
Lundy, KA
McEwen, A (teller)
Moore, CM
Polley, H
Sterle, G
Wong, P

Bullock, J.W.
Collins, JMA
Dastyari, S
Gallacher, AM
Lines, S
Marshall, GM
McLucas, J
O'Neil, DM
Singh, LM
Urquhart, AE

PAIRS
Back, CJ
Cormann, M
Fierravanti-Wells, C
Smith, D

Brown, CL
Peris, N
Carr, KJ
Ludwig, JW
Question agreed to.

The PRESIDENT (15:13): The question now is that Senator Abetz's motion to suspend standing orders be agreed to.

Question agreed to.

Senator ABETZ (Tasmania—Leader of the Government in the Senate, Minister Assisting the Prime Minister for the Public Service and Minister for Employment) (15:13): I thank the Senate. I move:

That government business notice of motion No. 1 may be moved immediately and have precedence over all other business today until determined.

I move:

That the question be now put.

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

Question agreed to.

The PRESIDENT: The question now is that government business notice of motion No. 1 have precedence over all other business.

Question agreed to.

Senator ABETZ (Tasmania—Leader of the Government in the Senate, Minister Assisting the Prime Minister for the Public Service and Minister for Employment) (15:14): At the request of Senator Fifield, I move government business notice of motion No.1:

(1) That the Senate meet from Monday, 17 November to Wednesday, 19 November 2014.
(2) That the following government business orders of the day be considered:

Aged Care and Other Legislation Amendment Bill 2014
Health and Other Services (Compensation) Care Charges (Amendment) Bill 2014
Australian Citizenship Amendment (Intercountry Adoption) Bill 2014
Australian Education Amendment Bill 2014
Australian National Preventive Health Agency (Abolition) Bill 2014
Australian Sports Anti-Doping Authority Amendment Bill 2014
Business Services Wage Assessment Tool Payment Scheme Bill 2014
Business Services Wage Assessment Tool Payment Scheme (Consequential Amendments) Bill 2014
Carbon Farming Initiative Amendment Bill 2014
Corporations Amendment (Streamlining of Future of Financial Advice) Bill 2014
Counter-Terrorism Legislation Amendment Bill (No. 1) 2014
Crimes Legislation Amendment (Unexplained Wealth and Other Measures) Bill 2014
Fair Work Amendment Bill 2014
Freedom of Information Amendment (New Arrangements) Bill 2014
Higher Education and Research Reform Amendment Bill 2014
Private Health Insurance Amendment Bill (No. 1) 2014
Social Services and Other Legislation Amendment (2014 Budget Measures No. 6) Bill 2014
Social Services and Other Legislation Amendment (Seniors Supplement Cessation) Bill 2014
Social Services and Other Legislation Amendment (Student Measures) Bill 2014
Tax Laws Amendment (Research and Development) Bill 2013.

(3) That on Monday, 17 November 2014, the sitting of the Senate shall be suspended at 3.20 pm till the ringing of the bells to enable senators to attend the address by His Excellency Mr Xi Jinping, President of the People's Republic of China.

(4) That—

(a) the estimates hearings by legislation committees which were not proceeded with on Tuesday, 21 October 2014, be rescheduled as follows:

2014-15 Budget estimates:

Thursday, 20 November 2014 (supplementary hearings—Group A); and

(b) the following committees meet:

Environment and Communications
Finance and Public Administration
Legal and Constitutional Affairs
Rural and Regional Affairs and Transport.

I move:

That the question be now put.

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

Question agreed to.

The PRESIDENT: The question now is that government business notice of motion No. 1 be agreed to.

Question agreed to.

Senator SIEWERT (Western Australia—Australian Greens Whip) (15:16): Mr President, I seek leave to make a very short statement.

The PRESIDENT: Leave is granted for one minute.

Senator SIEWERT: I put on record the Greens' opinion on government business notice of motion No. 1 and why we supported the suspension of standing orders. The Greens think it is reasonable to use the time during that week for Senate sittings considering that the Senate has been recalled anyway for the addresses by the heads of state. It would be a waste of taxpayers' money to sit here for two or more days, and we needed—

Senator Sterle: You don't have to come! I wasn't going to waste taxpayers' dollars coming over here listening to them!

The PRESIDENT: Order on my left! Senator Sterle!

Senator SIEWERT: It would be a huge waste of taxpayers' money not to use that time, and we needed an extra day of sitting for estimates as well.

But—and I put this on record now—we will not be supporting an extra week of sitting in December that the government is hinting that it may want. We will not be supporting the government in declaring a sitting week in the week starting 8 December. We think it is reasonable to use the time in the week starting 17 November because taxpayers' money should be used wisely.
QUESTIONS TO THE PRESIDENT

Standing Orders

Senator BERNARDI (South Australia) (15:15): Mr President, I seek clarification of an issue that I raised in question time with you about the use of quotations. I draw your attention to the 13th edition of Odgers’ Australian Senate Practice, specifically pages 638 and 639, in which President Brown ruled that 'it is not permissible to quote from newspapers, books or periodicals when asking questions'. I would like you to reflect on that ruling, determine whether it is appropriate and announce your deliberations to the Senate in the fullness of time.

The PRESIDENT (15:16): Thank you, Senator Bernardi. I will reflect on that and report back to the Senate.

QUESTIONS WITHOUT NOTICE: TAKE NOTE OF ANSWERS

Fuel Prices

Defence Procurement

Senator GALLACHER (South Australia) (15:17): I move:

That the Senate take note of the answers given by the Minister for Employment (Senator Abetz) and the Minister for Defence (Senator Johnston) to questions without notice asked by Senators Collins and Gallacher today relating to indexation of fuel excise and to the manufacture of the next fleet of Australian submarines.

I probably have a couple of laps under the belt—there are a few miles on the speedo and I am not sure that I was dreadfully hurt by Senator Johnston's suggestion that my question was incongruous and stupid. But I do want to press home to this minister that the good, loyal citizens of South Australia, the good, hardworking workforce at the Australian Submarine Corp and all those involved in defence activity and manufacturing do not think that these questions are incongruous and stupid. They, their employers and the small businesses that rely heavily on that manufacturing activity in South Australia clearly do not think it is incongruous and stupid to ask whether they will be prevented from bidding on a vital national defence project. Thousands and thousands of South Australians have indicated a very, very strong position in respect of all defence activity in South Australia, in particular the building of the next-generation submarines.

The minister also failed to confirm—forgetting South Australia for a minute, Senators—that Australian companies will not be given the opportunity to bid. So it has gone from ASC in Adelaide to all Australian companies not being invited, or he will not confirm at this stage that they will not be invited, to bid. I do not think that such questions are incongruous and stupid; I certainly do not think that at all. He failed to commit that the ASC will even be invited to bid. Despite billions of dollars of taxpayers’ investment in that activity throughout the whole Collins build and the sustained effort of keeping those submarines going until 2020, he will not even confirm that they will be able to get into the process. But he does say there will be a two-pass process that everybody will be happy with. If you go to a place and say, 'This is our promise: we will build the submarines right here at ASC in Adelaide,' and then shift ground, prevaricate and change your stance to being unable to confirm that ASC will be able to bid for a vital national defence project and unable to confirm that Australian companies will be invited to bid for the Future Submarine Project, you really are on very, very soft ground.
It is very clear that all those people on the other side who will face the electoral test at the next election have shifted their ground. Matt Williams, the member for Hindmarsh, wrote to the Prime Minister imploring him to change tack and commit to this. Senator Ruston, Senator Edwards and Senator Fawcett are 1, 2 and 3 on the Senate ticket. We do not know in which order, but we all know that they have distanced themselves from this broken promise.

Senator Ian Macdonald: As a South Australian Labor person, I wouldn't talk about—

The DEPUTY PRESIDENT: Order!

Senator GALLACHER: I will take that interjection, Senator Macdonald, because 'incongruous and stupid' could well apply to you. It could well apply to you in some circumstances—it could well apply. So thank you for that interjection.

The DEPUTY PRESIDENT: Order! I remind all senators to direct their comments through the chair.

Senator GALLACHER: What I can say, Mr Deputy President—

Senator Ian Macdonald: Tell us about the Labor Party Senate ticket last time!

The DEPUTY PRESIDENT: Order!

Senator GALLACHER: is that there is a Liberal coalition government and it would appear to be incongruous and stupid that they are not making decisions and that they are whingeing and whining about some other period of government.

You get elected to do the job. This incongruous and stupid minister ought to step up and do the job. He ought to commit to submarines in South Australia. He ought to allay the concerns of the workforce. He ought to allow Australian companies—heaven forbid!—to bid for work on Australian defence projects. I do not think that that is unreasonable. As far as I can see, 'incongruous and stupid' would apply more to the minister than the questions that the opposition crafted, because I note that people genuinely believe that they are good questions.

Senator WILLIAMS (New South Wales) (15:22): I think it is great that Senator Gallacher referred to the question that Senator Collins posed to Senator Abetz about the fuel tax. Let me give you a brief history on fuel tax. Mr Deputy President, you are not the youngest man around here and you would well remember 1983 when the Hawke government was elected. The excise on fuel per litre in 1983—Senator Macdonald might want to listen to this figure—was 6.3c a litre. In the 13 years of the Hawke and Keating governments, it went from 6.3c a litre to 34c a litre. It was the biggest increase in excise on fuel in our nation's history: 6.3c to 34c. It then went from 34c to 38c under the Howard government with the indexation; twice a year, the excise on fuel would go up. But then it was frozen in around 2000 by the Howard government. That was a good thing for two reasons. Firstly, it kept the price of fuel down; it would probably be 15c a litre more expensive today if that indexation had not been removed by the Howard government. Secondly, the budget was in surplus. I know that 'budget surplus' is a very strange thing for those opposite to understand. I think 1989 was the last time the federal Labor Party delivered a budget surplus. The excise was frozen at 38c.

I welcome the indexation brought in, and I will tell you why. When the former Premier Nick Greiner and Deputy Premier Wal Murray were in power in the New South Wales government they brought in what was called the three-by-three policy: 3c a litre for three
years—it went on longer, of course. Two-thirds of that tax was collected in the urban areas—that is where the greater population is—but the good news is that two-thirds of it was spent in the rural and regional areas.

I was discussing this with Anna Burke on Sky's Agenda the other day. Of course, Ms Burke is a member in Melbourne, and she does not have a dirt road in her electorate. She probably does not like money being spent on roads. We guaranteed that we would build the roads of the 21st century. Guess what? To build those roads actually costs money. We have inherited this budget mess. It was going to be a budget surplus by now, according to those opposite. Was it the world's greatest treasurer, Wayne Maxwell Swan—the former Treasurer, Mr Swan—who was going to deliver a surplus? We have not seen a surplus—far from it. We directed the budget to rein in spending, to get our books in order and to stop mortgaging our children's futures away, but we also want to build those roads. I live on a dirt road. It has been a mess for a long time but a few months ago Inverell Shire Council did an enormous job of repairing the roads and the school bus run. They did a great job.

Senator Cameron: They won't be able to afford to drive on them.

Senator WILLIAMS: Senator Cameron is probably not very familiar with dirt roads. He might have been out there once in his life many years ago, who knows?

We want our roads fixed, and it is going to cost money. We have already doubled the Roads to Recovery Program for 2015-16 for our local governments. It is a great program that was brought in many years ago. I commend those opposite for keeping it when they were in government. Thank goodness they did not wipe that out, or we would not have roads in the bush. We need this money to fix our roads. Out there, as Senator Cameron may not be aware, is where the cattle are carted to abattoirs; it is where wheat, cotton and those primary products are transported—many of them having to travel on rough, degraded dirt roads. Those roads need to be repaired. I look forward to every cent of the $2.2 billion over four years going into roads. That is most important. When that indexation legislation comes to this place within 12 months I hope that the Greens party, and Senator Rhiannon as well, support us on that legislation so that we in the country areas can have decent roads.

Senator Rhiannon interjecting—

Senator WILLIAMS: We want to spend it on roads and we want to fix our roads.

Senator Rhiannon interjecting—

Senator WILLIAMS: Public transport? We are already spending squillions on public transport in the cities. We want to spend the indexation funds on the roads to repair our roads. I know that in theory the Greens' policy is that they support increases in indexation. Please give it to some people out in the rural and regional areas to fix our roads, and then we can have safer roads, better roads so that the future generations can enjoy those better conditions that we so desperately need.

Senator STERLE (Western Australia) (15:27): It is amazing listening to the Nats lecture us on the spending of taxpayer dollars on roads. I wish to take note of answers—or attempted answers—to questions that were asked today. Before Senator Williams leaves the chamber, I say that I find Senator Williams to be a decent human being. He really is; there is no doubt about that. Sadly, when he has to defend policy that is off the reservation, he leaves himself
As did Senator Macdonald with his quip to Senator Gallacher—and Senator Gallacher wiped the floor with him—with the 'stupid' comment.

Can I just say that no-one in this building hates road taxes or petrol taxes more than me. Mr Deputy President, I speak with authority in this building when I talk about how that 38c a litre gets distributed to roads. I challenge anyone who has paid as much in tax on fuel as I over the years; if you can, step forward, bring it on. I would love to have the debate. As an ex-long-distance-owner-driver I remember that back in the 1990s—a very difficult time for me—I was on a campaign in Western Australia called 'axe the tax'. It was a grassroots movement to attack the then Liberal government about taxing truck drivers and fuel consumers out of existence. I remember vividly standing on a makeshift platform out the front of parliament house. I found it unbelievable that I was sharing the podium with a fellow named Barry Court, who happened to head, at that time, the Pastoralist and Graziers Association. He also happens to be the brother of the then Premier Richard Court. I still pinch myself believing that I would have anything in common with a far right conservative, as the Court family produced in that area, to argue against taxing truck drivers and taxing fuel consumers. I will tell you why, Mr Deputy President, because Senator Williams is so far out here. If every single cent collected by the Commonwealth in the fuel tax is delivered to building and maintaining roads, whether it be rural, regional, country or city, I would have absolutely no problem. But I challenge anyone opposite to prove to me that every single cent collected in fuel tax is distributed across this great country for turning dirt roads into bitumen, because we know that it could not be further from the truth.

I also want to touch on the disconnect with reality that we see in this chamber, and it is not only in this chamber. I have no doubt that my colleagues on the other side of the building see it even more because there are more of them misleading the population. When we talk about fuel tax or petrol tax, we must not forget Mr Hockey, the Treasurer of this country. When he was questioned about the effect of the introduction of a fuel excise on low-paid people he came back with that famous line, something like, 'It won't hit the poor because they don't have cars or actually drive very far.' This is from an out-of-touch, cigar-chomping Treasurer, and I find it absolutely incredible.

As I travel this great nation, as I go through Western Australia, or New South Wales, or Victoria, in my role as chair of the Rural and Regional Affairs and Transport Committee, I do not see a lot of wealth in a lot of our country towns. I do see it if I am travelling through Karratha or Port Hedland, but not in all of Port Hedland. I do not see it in the wheat belts, and I do not see it in the growing areas. In fact I will talk about the south-west and the great southern area of Western Australia. I have noticed that Senator Smith, who is from Western Australia, is silent on this. When you travel the main streets of Wagin, as Senator Bullock would know as a Western Australian, or Narrogin—the great farming towns where wealth really was generated from their feeding our nation—there are a lot of shops boarded up, there are a lot of businesses that have gone. We in the city, or we in this chamber, may sit here on our very gracious remuneration and think, 'What is a couple of dollars a week?' Well, to a lot of people out there in rural Australia, where Senator Williams comes from and where he espouses to represent, I do not think they share that same reasoning.
I also want to tell you about remote Aboriginal communities where I work throughout the Kimberley. I have to tell you that fuel is a major cost for the Aboriginal people to get to health services, to get to food, or to get their children a better education. (Time expired)

Senator IAN MACDONALD (Queensland) (15:33): Pursuant to standing order 191, I wish to explain some material part of a speech that I made which has been misquoted or misunderstood by Senator Sterle and Senator Gallacher. Senator Gallacher misinterpreted my speech by way of interjection. I was suggesting to Senator Gallacher that he would not want to make reference to the Liberal Party Senate preselection in South Australia, bearing in mind the Labor Party had a preselection where the leader—

The DEPUTY PRESIDENT: Order! Senator Macdonald, please resume your seat. Standing order 191 only applies to a debate in which you have already spoken, to make that clarification. You have not been part of this debate, you cannot use that standing order, so please resume your seat. A point of order.

Senator Ian Macdonald: Mr Deputy President, an interjection is taken under the rules as a speech. I participated by way of the speech. My interjection was that the Labor Party would not want to make a thing about it after what happened to the Labor Party preselection in South Australia.

The DEPUTY PRESIDENT: Senator Macdonald, there is no point of order. Senator Seselja.

Senator SESELJA (Australian Capital Territory) (15:34): I did want to talk a little bit about submarines, but before I do that I want to address Senator Sterle's commentary. I think it is a little bit rich for Senator Sterle, who just voted to keep a carbon tax, to claim that 40c a week is a disaster. In comparison to the carbon tax that he voted to retain we are talking about a significant difference.

Let's get to the issue around submarines, because I think there has been some interesting commentary about the disaster that Labor left us when it comes to the submarine program, or the lack of a submarine program, under the former government. We know why we have this mess. Over the last six years Defence spending dropped to levels not seen since 1938, a cut or deferral of some $16 billion. I will go to some of the commentary, specifically on Labor's failures on submarines in recent times, to explain exactly how we got into the position that we are in. I quote Greg Sheridan who wrote in The Australian, today, about replacing the six Collins class submarines and said:

The crisis is brought about by three policy decisions—three costly mistakes—that the Labor Party has made over the past three decades. The first was to design and build an orphan class of submarines—the Collins—in Australia. The cost was insane, the performance lamentable, the legacy debilitating.

The second was to do nothing about the subs for the six years Labor was in office under Kevin Rudd and Julia Gillard. Rudd's 2009 defence white paper extravagantly committed to build 12 new subs in Australia.

Impossibly, these were to have range and capabilities far beyond the Collins or any conventional sub, in effect nuclear subs with conventional engines. Having made this grandiose gesture, and stressed its extreme urgency, Labor did nothing of consequence about the subs for its entire term.

The third great Labor policy dereliction has been to frame its response to the Abbott government's attempt to find a replacement for Collins entirely as a campaign for local jobs in South Australia. He goes on:
Successive reviews under Labor made it clear that Australia does not have even a fraction of the design, engineering and construction capability such a project would need.

The article goes on to say:

Whatever sub Australia buys, all the deep maintenance and sustainment will be done in Australia.

So when we hear the Labor Party talk about this issue, we have to point to the history under the Labor Party—not just over the last six years but over the past several decades.

That is quite aside from the fiscal situation the Labor Party has left us, the fiscal situation we find ourselves in as a result of the profligate spending of the former Labor government—and it is not just about their profligate spending. Whilst they were overspending in a whole range or areas, they were depleting our defence capability by spending the lowest proportion of GDP on defence since 1938. We on the coalition side believe that that is irresponsible. I commend the Minister for Defence for his efforts to fix the mess that was left to him by the Labor Party—not just in the last six years but going back a number of decades. The absolute priority of the defence minister is to do what is in Australia's national defence interest. It is not simply about a dressed-up industry policy, as the Labor Party would have us believe.

I will make a few final points. One is that we had virtually a blank canvas on the issue of submarines when we came into government. That is a big part of the problem we are seeking to address. The second point is that we had crippling amounts of debt bequeathed to us by the Labor Party. Thirdly, defence spending under Labor fell to the lowest levels since the Second World War. Finally, regardless of what decision is eventually made, we will continue to support, through maintenance and other areas of defence capability, significant jobs here in Australia. Any attempt by the Labor Party to imply otherwise should be rejected as simply false. (Time expired)

Senator KETTER (Queensland) (15:39): I rise to speak about the latest broken promise from this government of twisted priorities. In doing so, I will touch on answers given by Senators Abetz and Johnston in question time today. Earlier this week, as a matter of public importance, we discussed a series of promises broken by this government. Today I will talk about the latest in that series of broken promises—which, the increase in the fuel tax, which will hit motorists for $2.2 billion over the next four years. This tax hike will disproportionately hit regional Queenslanders, who are already reeling from the savage cuts of an out-of-touch state government. But do not take my word for it; take the word of a noted Queensland leftie, Senator Ian Macdonald. On ABC Radio, Senator Macdonald said:

You have to have a car whether you are rich or poor.

He also said:

Regional Australians don't have the alternative of public transport …

Senator Macdonald is well aware of the impact of his government's latest broken promise and of the sneaky way it is being introduced into this place.

There are people other than the Labor Party railing against the government's fuel tax measure. Earlier in the year, when there was a prospect of something like this being included in the federal budget, the RACQ pointed out that an increase in fuel taxes would slug Queenslanders hardest. They said at the time:

To hit one of the biggest consumables that families pay for each week when living costs are so high is extremely disappointing. We're a decentralised state so we'll be hit harder because we travel further.
The CEO of Gold Coast Tourism, Martin Winter, said at the time that raising the fuel excise would hit the industry just when it was making some strong strides forward. Another notable critic of this change is the Queensland Treasurer, Tim Nicholls, who said that an excise hike would not be popular in Queensland—I think that is an understatement! He went on to say:

I would simply say that I don’t believe Queenslanders would be very comfortable with an increase in the petrol tax at the moment.

So there are quite a substantial number of people coming out and saying that this is a very bad move. The Australian Automobile Association estimates that the average motorist will pay about $142 extra per year for fuel by 2016-17. They have also said that the latest move by the government is ‘weak, sneaky and tricky.’

In an answer in today’s question time, Senator Abetz made some comments that I just cannot let go. Senator Abetz said that the coalition parties are renowned for being lower taxers and that the Liberals and the Nationals are the parties of low tax. However, the ABC fact-checking facility, which is always very handy, points out that tax as a proportion of GDP averaged 21.4 per cent between 2007 and 2013 under Labor—whereas under the previous Howard government the tax take hit 23.5 per cent of GDP. Let us get our facts right and see who is really responsible.

In closing, I will touch briefly on Senator Johnston’s answer on submarines. Before the election, the now Minister for Defence, Senator Johnston, said:

We will deliver those submarines from right here at ASC in South Australia. The coalition today is committed …

Given the opportunity to confirm that position today, the minister gave a very weak response. I visited the Collins-class submarine facility at the ASC in Adelaide and, unlike the defence minister, I could not help but be impressed and proud of what we are capable of building in our own backyard. All this is being put at risk by the twisted priorities of this government.

Question agreed to.

Higher Education

Senator RHIANNON (New South Wales) (15:44): I move:

That the Senate take note of the answer given by the Minister for Human Services (Senator Payne) to a question without notice asked by Senator Rhiannon today relating to higher education reforms.

I rise to speak on the response given to the clear question on the consultation the government undertook on its higher education bill. I asked a very simple question: how many of the one million students and 140,000 staff who make up our higher education sector were consulted? It is really on the record because Senator Payne was unable to provide the details. Yet again we hear about the vice-chancellors and senior management who are consulted, but that is not the higher education sector. The failure to consult is compounded by the fact that the government has lied. Let us remember: it was just prior to the last election, in September 2013. The then Leader of the Opposition, Mr Tony Abbott, was saying very clearly on the ABC: 'No cuts to education under a coalition government.'

Essentially, the bill that we have before us—about which I asked about the consultation that was undertaken—is really a budgetary measure. The impact it will have on higher education will be massive, ripping out $5 billion, and the government has not got past speaking to vice-chancellors and senior management. I asked some very specific questions
about the organisations to help jog the senator's memory: were the National Tertiary Education Union, the Australian Education Union, the National Union of Students, the Council of Australian Postgraduate Associations, the Australian Medical Students' Association or the National Alliance for Public Universities consulted? I asked the very clear question: who was consulted? Again, the words we get back are about vice-chancellors and senior management. This bill will be so damaging. Where this government wants to take us with higher education is so serious. We need to consult. I also put a question about a green paper—the very reasonable way governments can conduct themselves when they want to reorganise a major area, where you put it out widely to get feedback from the community, but there was avoidance on that one.

Why this is so serious—and it has been further highlighted today with information about the failure of this government to consult—is because of the momentous change this legislation would have if it goes through. It would create a higher education system that would be inequitable and elitist, with limited accessibility to the highest quality public education institutions. That is why we need this consultation.

We also need to remember that we can have an education system that is well funded. That is not difficult. Right now, Australia is very much down the bottom of funding in the OECD. If we move to average OECD funding for higher education, it would certainly require a billion-dollar boost, but surely that is what we should be aiming for. We cannot have an educated, innovative nation with the legislation that we have before us on higher education. It would be so deeply damaging to education and research. It would turn so many people away from coming to our universities, because of the deregulation that goes hand in hand with this $5 billion cut. It would deter so many people deciding on higher education.

Many countries have already moved to a free higher education policy: Germany, Sweden, Norway and other European countries, and a number of low-income countries as well. We have been talking about it recently with the death of the former Prime Minister. There are possibilities that we could return to that way. Those are the sorts of issues that should have been canvassed with a green paper and thorough consultation, but Minister Pyne has just run into his rabbit hole. He talks a lot, but who does he talk to? Only the people who will feed back to him what he wants to hear, which is an elitist form of education that may suit somebody like the Prime Minister, who feels comfortable coming from the North Shore and does not mind a $100,000 degree, and is not troubled by ripping money out of education and loading it onto students to pay the money. I go into those details to highlight why it was so important to have the consultation, and now we know how limited it was.

We will come back to this debate and I look forward to that, but certainly what we heard today further underlines that there is no deal that can be negotiated on this bill. There are no arrangements that can make it worthwhile. We cannot turn it into a winner. It needs to be scrapped in its entirety.

Question agreed to.

PERSONAL EXPLANATIONS

Senator PERIS (Northern Territory) (15:50): I seek leave to make a personal explanation under standing order 190.

Leave granted.
Senator PERIS: I rise to give a personal explanation in response to recent media reports relating to a number of private matters. The first thing I want to say is I am completely overwhelmed by the support I have received from so many Australians, from my family and friends to my parliamentary colleagues on both sides of the chamber and to hundreds of Australians that I have never met. I thank you all for your support.

Yesterday my only concern was my children and family. Today I will provide my side of the story. There have been media reports about my role in a trip to Australia by Ato Boldon in April 2010, at a time when I was separated from my ex-husband Daniel Batman, who is now deceased. The NT News has published emails which it claims I wrote almost five years ago. Other news organisations have re-published the content of the NT News story. There are serious questions about how these emails were obtained and passed to the NT News.

I do not have copies of the emails and cannot comment on their veracity. I am aware that Mr Boldon has stated that the emails are fake. What I can say is that the views attributed to me over the past two days, based on the publication of selected words contained in private emails, which I do not have, certainly do not reflect my views. They do not reflect my values. The evidence of this is the life I have led and continue to lead.

The excuse for the reports is a claim that I was responsible for a misuse of public funds. This claim is baseless. Firstly, I was not responsible for the payment or acquittal of money used to fund Mr Boldon's trip. Athletics Australia has confirmed that, in April 2010, Mr Boldon toured Australia as an ambassador and mentor for the Jump Start to London program. Athletics Australia has confirmed that my role was establishing initial contact with Mr Boldon. Athletics Australia has also confirmed that it paid for Mr Boldon's return flights from Los Angeles to Melbourne, his accommodation and reasonable expenses. Athletics Australia also says:

Mr Boldon capably fulfilled his role as a mentor and ambassador of the Jump Start to London and provided a boost to the profile of the program and for the sport of athletics in general.

This afternoon, the Australian Sports Commission has said that the use of sports ambassadors for programs like this was common, and Athletics Australia has:

… fully acquitted the funds provided, including independent auditor confirmation that they were spent for the purposes they were provided.

Mr President, I categorically reject any wrongdoing. I have done nothing wrong.

It pains me to have to talk about my private life, but the publication of these emails is part of a long-running and very difficult child access and financial estate dispute. During this process, I have been subjected to many threats. In dealing with these threats, I have faced the dilemma of responding to defend my political career or responding to defend my children. Well, Mr President, it is not actually a dilemma. I have always put my children first and will continue to do so. The NT News has not revealed who provided it with private emails, though News Limited has claimed its source is credible. The facts are these. On 19 October 2012, the aggrieved party in the financial estate and child access dispute involving me and my children emailed and revealed he had in his possession a folder of information pertaining to Mr Boldon's visit to Australia. I did not realise at the time he was referring to these emails.

On 21 March this year, a representative of that aggrieved party emailed me and said that, unless his wishes were granted, she would take such action which:
… will only result in causing major trauma for everyone, especially the children and damage the reputation of some stakeholders.

Three weeks ago, on 9 October, I received a further email from the representative of this aggrieved party. The first line read:

I am sending this communication to you today to ensure there is no mistake as to who is responsible for releasing the information in relation to you.

The release and publication of these emails is an attempt to extract money and embarrass me and my family. With legal options now exhausted, this other party has turned to the media. I can inform the Senate the Northern Territory News was well aware these emails were part of a long-running family dispute ahead of its publication.

Mr President, I have spoken in person to Cathy Freeman. Our friendship remains strong, and we will continue to support each other. Despite the hopes of some, this incident will not stop me from serving the people of the Northern Territory and advocating on behalf of Aboriginal Australians.

Opposition senators: Hear, hear.

Senator PERIS: Last night in the Northern Territory parliament, a report was tabled that showed the number of Aboriginal children that have been taken from their parents and put into care has increased by 26 per cent last year.

Opposition senators: Shame.

Senator PERIS: This and many other stories like it deserve this nation's attention. There is so much to be done for the people I represent in this place.

Mr President, I stand here today proud of who I am: proud to be a mother, a grandmother, a daughter and a wife. My children are my universe and I will protect and nurture them no matter what people say about me now or in the future. I do not propose to provide any further commentary on this matter.

Mr President, there are three things guaranteed in life. We will all die at some stage. Each day the sun will set and it will rise again tomorrow. Today is just one of those days.

BUSINESS

Leave of Absence

Senator McEWEN (South Australia—Opposition Whip in the Senate) (15:57): by leave—At the request of Senator Brown, I move:

That leave of absence for personal reasons be granted to Senator Brown for today, 30 October 2014.

Question agreed to.

COMMITTEES

Publications Committee

Report

Senator BUSHBY (Tasmania—Chief Government Whip in the Senate) (15:58): On behalf of the Chair of the Publications Committee, I present the 10th report of the Publications Committee.

Ordered that the report be adopted.
BUDGET

Consideration by Estimates Committees

Senator BUSHBY (Tasmania—Chief Government Whip in the Senate) (15:58): On behalf of the respective chairs, I present additional information received by committees relating to the following estimates:

- Budget estimates 2014-15—
  - Community Affairs Legislation Committee—Additional information received between 26 September and 30 October 2014—Social Services portfolio.
  - Environment and Communications Legislation Committee—Additional information received between 4 September and 20 October 2014—
    Communications portfolio.
    Environment portfolio.
  - Finance and Public Administration Legislation Committee—Additional information received between—
    3 September and 28 October 2014—Prime Minister and Cabinet portfolio.
    1 and 28 October 2014—Finance portfolio.
  - Budget estimates 2014-15 (Supplementary)—Community Affairs Legislation Committee—Additional information received between—
    22 and 30 October 2014—
    Department of Human Services.
    Health portfolio.
    23 and 30 October 2014—Social Services portfolio.

COMMITTEES

Environment and Communications References Committee

Additional Information

Senator McEWEN (South Australia—Opposition Whip in the Senate) (15:58): On behalf of the Chair of the Environment and Communications References Committee (Senator Urquhart), I present additional information received by the committee on its inquiry into the management of the Great Barrier Reef.

Foreign Affairs, Defence and Trade Committee

Education and Employment References Committee

Government Response to Report

Senator COLBECK (Tasmania—Parliamentary Secretary to the Minister for Agriculture) (15:59): By leave—I present a government response to a committee report as listed in today's Order of Business as well as the government's response to reports of the Education and Employment References Committee on affordable early childhood education and care services. In accordance with the usual practice, I seek leave to incorporate the documents in Hansard.

Leave granted.

The documents read as follows—
Joint Standing Committee on Foreign Affairs, Defence and Trade  
Government Response  
October 2014  
Recommendation 1  
5. Reviews of Defence Culture  
The Committee recommends that the 'Defence Abuse Reparation Scheme Guidelines' and the Defence Abuse Response Taskforce terms of reference should be reviewed to clarify:  
(a) whether cases involving a complainant not employed by Defence fall within the scope of the relevant processes; and  
(b) what abuses are defined as in and out of scope, including whether abuses which constitute offenses under relevant Commonwealth legislation are included.  

**Government Response—1 (a) Agreed in principle**  

*The Defence Abuse Response Taskforce (Taskforce) is an independent body which is administratively housed in the Attorney-General's portfolio. Accordingly, Defence has passed the recommendations to the Taskforce for consideration. The Taskforce has considered the committee’s recommendations and has not requested any changes to the terms of reference or Reparation Scheme guidelines. The Taskforce has provided the following response:*  
The Taskforce has reviewed the Defence Abuse Reparation Scheme Guidelines and the Defence Abuse Response Taskforce Terms of Reference. Following the review, the Taskforce would like to refer to the previous response provided to the Senate Foreign Affairs, Defence and Trade References Committee, to Question 4 of the Questions on Notice from the public hearing of 14 March 2013.  
'The scope of the Scheme has been set by the Government. The Taskforce must accordingly comply with them and does not have any authority to substantively "amend" them. The Defence Abuse Reparation Scheme (the Scheme) is not open to all members of the public, nor is it open to all current or former Defence employees. As such, it is clearly stipulated in the Defence Abuse Reparation Scheme Guidelines in 3.1.4, sub paragraph (c) 'A person is eligible if they were at the time of the alleged abuse employed in Defence'.  
The definition of "employed in Defence" includes:  
(a) an employee of the Department of Defence, whether the person is or was so employed under a law of the Commonwealth or under a contract of service or apprenticeship, or  
(b) a serving member of the Australian Defence Force including a member of the Australian Defence Force Reserves, or  
(c) a cadet (who for example is presently known as an Australian Navy Cadet (ANC), Australian Army Cadet (AAC) or an Australian Air Force Cadet (AAFC).  

**Government Response—1 (b) Agreed in principle**  

*The Defence Abuse Response Taskforce (Taskforce) is an independent body which is administratively housed in the Attorney-General's portfolio. Accordingly, Defence has passed the recommendations to the Taskforce for consideration. The Taskforce has provided the following response:*  
The Taskforce has reviewed the Defence Abuse Reparation Scheme Guidelines and the Defence Abuse Response Taskforce Terms of Reference. Following the review, the Taskforce would like to highlight that the types of abuse are defined within the Defence Abuse Reparation Scheme Guidelines in 1.5.4 subsections (a) to (d) 'the types of alleged abuse that fall within the scope of the Reparation Scheme are allegations of abuse':  
(a) Sexual abuse,
(b) Physical abuse,
(c) Sexual harassment, and
(d) Workplace harassment and bullying.

The abuse raised by complainants does not need to specifically fit into one of the above categories, as these categories have been set as a guide for the taskforce to exercise discretion when assessing each case.

**Recommendation 2**

6. **Strategic Reform Program**

The Committee recommends that the Defence Annual Report include detailed information on how savings are being achieved under each stream of the Strategic Reform Program.

**Government Response—Not Agreed**

The Strategic Reform Program has ended as an independent program. The remaining viable reform streams have been integrated with other major departmental reform activities and the reporting on these initiatives is now included in enterprise business processes. Defence is no longer tracking initiatives commenced under the Strategic Reform Program as stand alone streams and is now measuring the broader benefits of reform. Therefore, it is not possible to report savings achievements by stream. Defence will continue to pursue organisational reform and provide information on initiatives as appropriate in future annual reports.

**Recommendation 3**

7. **Other Issues**

The Committee recommends that the Department of Defence enhance its public reporting by:

(a) Developing a more precise method for reporting performance on capabilities acquisition and sustainment, which would detail:
   - Specific performance targets;
   - how performance is assessed in relation to these targets; and
   - the specific reasons why targets are, or are not, achieved;
(b) Including some detail on emerging areas of concern and potential future issues;
(c) Enhancing its reporting on the Defence budget and its implications for capabilities acquisition and sustainment;
(d) Undergoing a periodic review conducted by independent experts, similar to the United States' Quadrennial Defense Review; and
(e) Including information on operational readiness.

**Government Response—3 (a) Agreed in principle**

Defence has already taken steps to include some additional reporting on sustainment and acquisition performance for inclusion in the Annual Report from 2013-14. Defence will ensure that any projects identified in the Portfolio Budget Statements are reported in the following Annual Report, and will seek opportunities to improve the current analysis regarding performance targets and achievements. From an acquisition perspective, of note is that the Australian National Audit Office tables the annual review of selected Defence equipment acquisition projects in the Major Projects Report as at 30 June each year (with the last report, tabled on 19 December 2012, reporting on the performance of 29 projects as at 30 June 2012). The Major Projects Report improves the transparency of, and accountability for, the status of the Defence Materiel Organisation Major Projects for the benefit of the Parliament, the Government and other stakeholders.
To provide increased visibility into sustainment performance, and in response to a Question on Notice from the Joint Committee of Public Accounts and Audit, Defence intends to expand its current reporting in the Portfolio Budgets Statements (PBS) and Annual Report from the Top 20 to the Top 30 Sustainment Products. The number at 30 is consistent with the number of projects examined in the Major Projects Report and the Top 30 Major Capital Projects currently disclosed in the PBS and Annual Report. One of the advantages of increasing the number of sustainment products to 30 in the Annual Report is that Defence will provide enhanced visibility of approximately 77 per cent of the current $4.2 billion expenditure on sustainment activities.

Government Response—3 (b) Agreed in principle
Defence agrees in principle with this recommendation. Future iterations of the Defence Annual Report will contain detail on personnel challenges, potentially including workforce shortages, critical categories and prospective trends.

Government Response—3 (c) Not agreed
Defence is committed to enhancing the transparency of its budget. The First Principles Review of Defence will look at the area of accountability and provide recommendations on simplification and improvement. This will include looking at the way in which Defence's budget information is prepared and the number of systems that contain elements of Defence's financial information. In addition Defence will continue to comply with the Parliament's Requirements for Annual Reports.

Government Response—3 (d) Agreed
The Government has agreed to the appointment of an expert independent advisory team to undertake a first-principles review of the Department of Defence's structure and major processes.

Government Response—3 (e) Agreed in principle
Defence will provide an overview on preparedness for incorporation in the Defence Annual Report 2013-14. Please note that while the United States term "operational readiness" is used in the Committee's report, Defence uses the term "preparedness" to refer to the same function.

Recommendation 4

7. Other Issues
The Committee recommends that the Defence Parliamentary Engagement Program include placements with the Department of Defence policy areas and the Defence Materiel Organisation.

Government Response—Agreed in principle
The Department will assess the viability of an expanded program and identify resource implications. The implementation of this recommendation will have significant ramifications for the current Australian Defence Force Parliamentary Program (ADFP), and will require major change to current ADFPP arrangements, including altering its purpose, objectives and title.

GOVERNMENT RESPONSE TO THE REPORT BY THE SENATE EDUCATION AND EMPLOYMENT REFERENCES COMMITTEE:
'Delivery of quality and affordable early childhood education and care services'
OCTOBER 2014

Preamble
The Australian Government welcomes the opportunity to respond to the report of the Senate Education and Employment References Committee, 'Delivery of quality and affordable early childhood education and care services'.
On 12 December 2013, the Senate referred the inquiry into delivery of quality and affordable early childhood education to the committee for inquiry and report by 17 June 2014 (upon application the Senate granted an extension for the reports until 16 July 2014). The committee agreed that submissions should be received by 14 March 2014.

The inquiry's terms of reference focus on the delivery of quality and affordable early childhood education and care services, including:

a. outcomes for children in early childhood education and care services, including:
   i. workforce factors such as stability, qualifications and wage rates
   ii. quality regulation (including staff-to-child ratios)
   iii. participation and access to services
   iv. environments for learning
b. a progress report into the implementation of the National Quality Framework (NQF), including targets met and those working toward
c. parents' experiences of the outcomes of the NQF
d. impacts of the announced government amendments to the NQF, and the outcomes for children and early childhood education and care services
e. any other related matters.

The committee tabled its report in the Senate on 16 July 2014. The report contains five recommendations, with a further three recommendations from the Australian Greens (Senator Sarah Hanson-Young) and three recommendations from Senator Nick Xenophon.

The Government is committed to establishing a sustainable future for a more flexible, affordable and accessible child care and early childhood learning system that helps underpin the national economy and supports the community, especially parent's choices to participate in work or training and children's growth, welfare, learning and development.

As announced on 17 November 2013, the Government has tasked the Productivity Commission with an inquiry into child care and early childhood learning. The Commission is to report on and make recommendations about how the child care system can be made more flexible, affordable and accessible.

The Government thanks the committee and the Senators for their recommendations.

Response:

The Government notes that the committee's report and recommendations need to be considered in the context of the current Productivity Commission inquiry into future options for child care and early childhood learning, with a focus on developing a system that supports workforce participation and addresses children's learning and development needs. This inquiry is broad-ranging and the Commission's final report is due to be submitted to the Government by the end of October 2014. The Government will await that report before determining future child care and early childhood learning policies. The Government notes the committee's report and recommendations about this important area of public policy.

RESPONSE TO RECOMMENDATIONS
PART 1—RESPONSE TO RECOMMENDATIONS FROM THE COMMITTEE

Committee Recommendation 1

The committee recommends that the government continues the implementation of the NQF in accordance with the time frames set down and agreed to by the Council of Australian Governments (COAG).
Government Response: Noted.
The previous Government and all states and territories established the National Partnership Agreement (NPA) on the National Quality Framework (NQF) for Early Childhood Education and Care. The NQF commenced progressive implementation from 1 January 2012.
The Government supports the NQF and the goal of higher quality child care and early learning, but is concerned that its implementation is causing unnecessary regulatory burden, which is passed on as cost increases for families.

Under the NPA, a review must be conducted in 2014 (2014 Review) to assess the extent to which the objectives and outcomes of the NPA have been achieved. The 2014 Review is now underway and its findings will be considered by the COAG Education Council. The scope of the review includes consideration of the NQS and the assessment and rating system.

Pending the outcome of the 2014 Review, the Government is working with the states and territories to improve aspects of the NQF implementation and reduce regulatory burden. For example, from June 2014 the process for providing supervisor certificates was streamlined and flexibilities introduced to address workforce shortages, particularly in remote and very remote areas.

The Government has also tasked the Productivity Commission to undertake a public inquiry into future options for child care and early childhood learning, with a focus on developing a system that supports workforce participation and addresses children’s learning and development needs. This inquiry is broad-ranging, including consideration of the impact of the implementation of the NQF. The inquiry’s final report is due to be submitted to Government by the end of October 2014. The Government will await that report before determining future child care and early childhood learning policy.

Committee Recommendation 2
The committee recommends that the government examine and undertake to provide additional resources directly to small rural and regional early childhood services to ensure they continue to meet quality standards, and attract and retain professional staff.

Government Response: Noted.
The Australian Government has in place a range of support for rural and regional early childhood services, through programmes such as the Budget Based Funded Programme, the Community Support Program and the Inclusion and Professional Support Program.

The Government's $200 million Long Day Care (LDC) Professional Development Programme also provides additional funding for educators working in rural and remote areas. The Programme supports the professional development of educators in all LDC services and will assist those services in meeting the NQF requirements and improving practices to ensure quality outcomes for children.

The Government has also tasked the Productivity Commission to undertake a public inquiry into future options for child care and early childhood learning, with a focus on developing a system that supports workforce participation and addresses children’s learning and development needs. This inquiry is broad-ranging, including consideration of families in rural, regional and remote areas. The inquiry’s final report is due to be submitted to Government by the end of October 2014. The Government will await that report before determining future child care and early childhood learning policy.

Committee Recommendation 3
The committee recommends the rating system be retained.

Government Response: Noted.
The rating system is established under the NQF. In April 2014 the COAG Education Council agreed to streamline aspects of the assessment and rating process. The 2014 Review is also examining the assessment and rating system, including options to further streamline the process to reduce regulatory burden on services and Regulatory Authorities.
The Government has also tasked the Productivity Commission to undertake a public inquiry into future options for child care and early childhood learning, with a focus on developing a system that supports workforce participation and addresses children's learning and development needs. This inquiry is broad-ranging, including consideration of the impact of the implementation of the NQF. The inquiry's final report is due to be submitted to Government by the end of October 2014. The Government will await that report before determining future child care and early childhood learning policy.

Committee Recommendation 4
The committee recommends that the government reinstate the Early Years Quality Fund to assist educators in meeting the training requirements set out in the National Quality Framework.

Government Response: Not agreed.
An independent review of the Early Years Quality Fund (EYQF) confirmed the fund was fundamentally flawed, would not achieve its objectives and would benefit less than 30 per cent of long day care workers.

The Government has implemented its election commitment in relation to the EYQF by honouring funds contracted from the EYQF, but committing that remaining funds would be redirected to benefit the whole Long Day Care (LDC) sector. The $200 million Long Day Care Professional Development Programme (LDCPDP), which replaced the EYQF, is providing an unprecedented level of funding towards the learning and development needs of educators in all long day care services.

There has been strong interest from LDC services in the LDCPDP. Most importantly all funding is allocated on an equitable basis to ensure all LDC services can receive their 'fair share'.

Committee Recommendation 5
The committee recommends that the government immediately initiate a review of low wages in the early childhood education and care sector and report on the role of government in lifting wages to a professional level in line with the skills and qualifications required of educators.

Government Response: Not agreed.
The Government does not operate child care and early learning services or employ early childhood educators or regulate educators' wages. Minimum wages are provided for through modern awards which are reviewed and adjusted by the independent workplace umpire, the Fair Work Commission (FWC). Under the Fair Work Act employers and employees and their representatives can negotiate an Enterprise Agreement.

The FWC is currently considering two equal remuneration applications for early childhood educators. It is appropriate that these applications should proceed through that process.

PART 2—RESPONSE TO RECOMMENDATIONS FROM THE AUSTRALIAN GREENS (SENATOR HANSON-YOUNG)

Senator Hanson-Young Recommendation 1
The Australian Greens recommend that the National Quality Framework be supported and its implementation continue as planned.

Government Response: Noted.
The previous Government and all states and territories established the National Partnership Agreement (NPA) on the National Quality Framework (NQF) for Early Childhood Education and Care. The NQF commenced progressive implementation from 1 January 2012.

The Government supports the NQF and the goal of higher quality child care and early learning, but is concerned that its implementation is causing unnecessary regulatory burden, which is passed on as cost increases for families.
Under the NPA, a review must be conducted in 2014 (2014 Review) to assess the extent to which the objectives and outcomes of the NPA have been achieved. The 2014 Review is now underway and its findings will be considered by the COAG Education Council. The scope of the review includes consideration of the NQS and the assessment and rating system.

Pending the outcome of the 2014 Review, the Government is working with the states and territories to improve aspects of the NQF implementation and reduce regulatory burden. For example, from June 2014 the process for providing supervisor certificates was streamlined and flexibilities introduced to address workforce shortages, particularly in remote and very remote areas.

The Government has also tasked the Productivity Commission to undertake a public inquiry into future options for child care and early childhood learning, with a focus on developing a system that supports workforce participation and addresses children’s learning and development needs. This inquiry is broad-ranging, including consideration of the impact of the implementation of the NQF. The inquiry’s final report is due to be submitted to Government by the end of October 2014. The Government will await that report before determining future child care and early childhood learning policy.

**Senator Hanson-Young Recommendation 2**

The Australian Greens recommend that the existing Child Care Rebate and Child Care Benefit be streamlined into one central payment, which is paid directly to centres to reduce the out-of-pocket costs to families.

**Government Response: Noted.**

The Government has tasked the Productivity Commission to undertake a public inquiry into future options for child care and early childhood learning, with a focus on developing a system that supports workforce participation and addresses children’s learning and development needs. This inquiry is broad-ranging, including consideration of the rebates and subsidies available to parents using child care. The inquiry’s final report is due to be submitted to Government by the end of October 2014. The Government will await that report before determining future child care and early childhood learning policy.

**Senator Hanson-Young Recommendation 3**

The Australian Greens recommend that the government urgently address the current wage crisis in the sector by providing appropriate funding through mechanisms other than Enterprise Agreements in order not to disadvantage smaller providers.

**Government Response: Not Agreed.**

The Government does not operate child care and early learning services or employ early childhood educators or regulate educators’ wages. Minimum wages are provided for through modern awards which are reviewed and adjusted by the independent workplace umpire, the Fair Work Commission (FWC). Under the Fair Work Act employers and employees and their representatives can negotiate an Enterprise Agreement.

The FWC is currently considering two equal remuneration applications for early childhood educators. It is appropriate that these applications should proceed through that process.

**PART 3—RESPONSE TO RECOMMENDATIONS FROM SENATOR XENOPHON**

**Senator Xenophon Recommendation 1**

That a separate rating is provided for each of the seven NQS areas assessed by ACECQA.

**Government Response: Noted.**

Under the NQF, services already receive a rating for each of the seven NQS areas. It is the responsibility of Regulatory Authorities in each state and territory to assess and rate services. ACECQA’s role is to provide oversight and report on the implementation of the NQF including assessment and rating against the National Quality Standard (NQS).
Under the NPA, a review must be conducted in 2014 (2014 Review) to assess the extent to which the objectives and outcomes of the NPA have been achieved. The 2014 Review is now underway and its findings will be considered by the COAG Education Council.

The scope of the review includes consideration of the NQS and the assessment rating system. The Government is committed to quality under the NQF, but is concerned by reports from parents and services that implementation is causing administrative and staffing problems, which are passed on as cost increases for families.

Pending the outcome of the 2014 Review, the Government is working with the states and territories to improve aspects of the NQF implementation and reduce regulatory burden. In April 2014 the COAG Education Council agreed to streamline the assessment and rating process.

The Government has also tasked the Productivity Commission to undertake a public inquiry into future options for child care and early childhood learning, with a focus on developing a system that supports workforce participation and addresses children's learning and development needs. This inquiry is broad-ranging, including consideration of the impact of the implementation of the NQF. The inquiry's final report is due to be submitted to Government by the end of October 2014. The Government will await that report before determining future child care and early childhood learning policy.

**Senator Xenophon Recommendation 2**
The Government consider allocating more resources to ACECQA in order to expedite the ECEC provider assessment process.

**Government Response: Noted.**

Regulatory Authorities in each state and territory are responsible for the assessment and rating of services.

**Senator Xenophon Recommendation 3**
The Government consider and provide a prompt response to NICA’s proposal for greater in-home care in Australia.

**Government Response: Noted.**

The Government has tasked the Productivity Commission to undertake a public inquiry into future options for child care and early childhood learning, with a focus on developing a system that supports workforce participation and addresses children's learning and development needs. This inquiry is broad-ranging and is considering the types of child care available, including but not limited to: long day care, family day care, in home care including nannies and au pairs, mobile care, occasional care and outside school hours care. The inquiry's final report is due to be submitted to Government by the end of October 2014. The Government will await that report before determining future child care and early childhood learning policy.

**GOVERNMENT RESPONSE TO THE REPORT BY THE INQUIRY INTO SENATE EDUCATION AND EMPLOYMENT REFERENCES COMMITTEE:*

"Immediate future of the childcare sector in Australia"

**OCTOBER 2014**

**Preamble**
The Australian Government welcomes the opportunity to respond to the report of the Senate Education and Employment References Committee, "Immediate future of the childcare sector in Australia". On 12 December 2013, the Senate referred the inquiry into the immediate future of the childcare sector in Australia to the Committee for inquiry and report by 17 June 2014 (upon application the Senate
The committee agreed that submissions should be received by 14 March 2014.

The inquiry's terms of reference focus on the immediate future of the childcare sector in Australia, with particular reference to:

a. cost and availability for parents over the short term, including the effectiveness of the current government rebates
b. administrative burden, including the impact of the introduction of the National Quality Framework
c. the current regulatory environment and the impact on children, educators and service operators
d. how the childcare sector can be strengthened in the short term to boost Australia's productivity and workplace participation for parents
e. any related matters.

The Committee tabled its report in the Senate on 16 July 2014. The report contains three recommendations, with a further four recommendations from the Australian Greens (Senator Sarah Hanson-Young) and three recommendations from Senator Nick Xenophon.

The Government is committed to establishing a sustainable future for a more flexible, affordable and accessible child care and early childhood learning system that helps underpin the national economy and supports the community, especially parent's choices to participate in work or training and children's growth, welfare, learning and development.

As announced on 17 November 2013, the Government has established a Productivity Commission Inquiry into Childcare and Early Childhood Learning to report on and make recommendations about how the child care system can be made more flexible, affordable and accessible. The Inquiry is broad-ranging and will address the issues raised in the report's recommendations. The final report of the Inquiry is due to the Government by the end of October 2014. The Government will be responding to the Productivity Commission's Inquiry report after it is provided to the Government.

The Government thanks the Committee and the Senators for their recommendations.

Response:

The Government notes that the committee's report and recommendations need to be considered in the context of the current Productivity Commission inquiry into future options for child care and early childhood learning, with a focus on developing a system that supports workforce participation and addresses children's learning and development needs. This inquiry is broad-ranging and the Commission's final report is due to be submitted to the Government by the end of October 2014. The Government will await that report before determining future child care and early childhood learning policies. The Government notes the committee's report and recommendations about this important area of public policy.

RESPONSE TO RECOMMENDATIONS
PART 1—RESPONSE TO RECOMMENDATIONS FROM THE COMMITTEE
Committee Recommendation 1

The committee recommends that the government rescind its proposed budget changes to ECEC funding, particularly in relation to CCB.

Government Response: Not agreed.

The Government is committed to ensuring its budget initiatives are fully considered by the Parliament and has presented the case for its proposed changes through the budget process.
The Child Care Benefit measure is one element of the Government's broader measure to maintain eligibility thresholds for Australian Government payments for three years. Over four years, the Government is investing around $31 billion in child care and early learning, including $28.5 billion in direct child care assistance to parents.

The Senate Education and Employment Legislation Committee recommended that the amending legislation for this measure be passed by Parliament as it is limited, well targeted, is for a finite period of time, and is a necessary part of the broader Government agenda of repairing the budget and strengthening the economy.

The Government has tasked the Productivity Commission to undertake a public inquiry into future options for child care and early childhood learning, with a focus on developing a system that supports workforce participation and addresses children's learning and development needs. This inquiry is broad-ranging and its final report is due to be submitted to Government by the end of October 2014. The terms of reference for this inquiry include consideration of rebates and subsidies for child care. The Government will await that report before determining future child care and early childhood learning policy.

Committee Recommendation 2
The committee recommends that the government act to immediately restore the JETCCFA to a maximum of 50 hours, and re-establish the WELL program.

Government Response: Not Agreed.
In the current tight fiscal environment all Government programmes must be managed carefully within their budget allocations to ensure that they are fair, sensible and sustainable. The Jobs, Education and Training Child Care Fee Assistance (JETCCFA) programme has exceeded its budget allocation in the last two years and has required additional funding.

From 5 January 2015, the Government is introducing two key changes to the JETCCFA programme to ensure it stays within its budget allocation:

- a maximum $8 hourly cap for JETCCFA payments, after Child Care Benefit,
- a 36 hour weekly limit per child for JETCCFA payments to recipients undertaking study (compared to the average hours of care, which is around 24 hours per week).

This means that for most JETCCFA families there will be no impact unless they use a child care service that charges fees over $13.10 per hour (e.g. $4.10 Child Care Benefit, $8 JETCCFA, $0.50 Child Care Rebate and $0.50 parent contribution).

JETCCFA recipients who are studying will not be impacted unless they use care for more than 36 hours per week. Those JETCCFA recipients undertaking work or combining work and study activities can still access JETCCFA payments for up to 50 hours of care per week.

The Government has also tasked the Productivity Commission to undertake a public inquiry into future options for child care and early childhood learning, with a focus on developing a system that supports workforce participation and addresses children's learning and development needs. This inquiry is broad-ranging, and its final report is due to be submitted to Government by the end of October 2014. The terms of reference for this inquiry include consideration of rebates and subsidies for child care. The Government will await the final report from this inquiry before determining future child care and early childhood learning policy.

Committee Recommendation 3
The committee recommends that the government maintain the National Partnership agreements put in place by the previous Labor government to guarantee universal access for four year olds.
Government Response: Noted.
The previous Government did not provide funding for universal access beyond 2014 in the Budget Forward Estimates.
The Government recently announced that it will invest a further $406 million to provide funding to the states and territories in support of continued access to preschool programmes in 2015. States and territories will be required to make funds available to all preschool programmes, regardless of whether the programme is delivered through schools, standalone preschools or long day care centres.
The funding provides families and services with certainty for 2015 pending the outcome of the Productivity Commission's public inquiry into future options for child care and early childhood learning, with a focus on developing a system that supports workforce participation and addresses children's learning and development needs. This inquiry is broad-ranging, including consideration of children's early learning and development needs. The inquiry's final report is due to be submitted to Government by the end of October 2014. The Government will await that report before determining future child care and early childhood learning policy.

PART 2—RESPONSE TO RECOMMENDATIONS FROM THE AUSTRALIAN GREENS (SENATOR HANSON-YOUNG)

Senator Hanson-Young Recommendation 1

The Australian Greens recommend that the National Quality Framework be supported and its implementation continue as planned.

Government Response: Noted.
The previous Government and all states and territories established the National Partnership Agreement (NPA) on the National Quality Framework (NQF) for Early Childhood Education and Care. The NQF commenced progressive implementation from 1 January 2012.
The Government supports the NQF and the goal of higher quality child care and early learning, but is concerned that its implementation is causing unnecessary regulatory burden, which is passed on as cost increases for families.

Under the NPA, a review must be conducted in 2014 (2014 Review) to assess the extent to which the objectives and outcomes of the NPA have been achieved. The 2014 Review is now underway and its findings will be considered by the COAG Education Council.
The scope of the review includes consideration of the NQS and the assessment and rating system.

Pending the outcome of the 2014 Review, the Government is working with the states and territories to improve aspects of the NQF implementation and reduce regulatory burden. For example, from June 2014 the process for providing supervisor certificates was streamlined and flexibilities introduced to address workforce shortages, particularly in remote and very remote areas.
The Government has also tasked the Productivity Commission to undertake a public inquiry into future options for child care and early childhood learning, with a focus on developing a system that supports workforce participation and addresses children's learning and development needs. This inquiry is broad-ranging, including consideration of the impact of the implementation of the NQF. The inquiry's final report is due to be submitted to Government by the end of October 2014. The Government will await that report before determining future child care and early childhood learning policy.

Senator Hanson-Young Recommendation 2

The Australian Greens recommend that the existing Child Care Rebate and Child Care Benefit be streamlined into one central payment, which is paid directly to centres to reduce the out-of-pocket costs to families.
Government Response: Noted.
The Government has tasked the Productivity Commission to undertake a public inquiry into future options for child care and early childhood learning, with a focus on developing a system that supports workforce participation and addresses children's learning and development needs. This inquiry is broad-ranging, including consideration of the rebates and subsidies available to parents using child care. The inquiry's final report is due to be submitted to Government by the end of October 2014. The Government will await that report before determining future child care and early childhood learning policy.

Senator Hanson-Young Recommendation 3
The Australian Greens recommend that the government urgently address the current wages crisis in the sector by providing appropriate funding through mechanisms other than Enterprise Agreements in order not to disadvantage smaller providers.

Government Response: Not Agreed.
The Government does not operate child care and early learning services or employ early childhood educators or regulate educators' wages. Minimum wages are provided for through modern awards which are reviewed and adjusted by the independent workplace umpire, the Fair Work Commission (FWC). Under the Fair Work Act employers and employees and their representatives can negotiate an Enterprise Agreement. The FWC is currently considering two equal remuneration applications for early childhood educators. It is appropriate that these applications should proceed through that process.

Senator Hanson-Young Recommendation 4
The Australian Greens recommend that the government reaffirm its funding commitment to guarantee universal access for all four year olds.

Government Response: Noted.
The previous Government did not provide funding for universal access beyond 2014 in the Budget Forward Estimates. The Government recently announced that it will invest a further $406 million to provide funding to the states and territories in support of continued access to preschool programmes in 2015. States and territories will be required to make funds available to all preschool programmes, regardless of whether the programme is delivered through schools, standalone preschools or long day care centres.

The funding provides families and services with certainty for 2015 pending the outcome of the Productivity Commission's public inquiry into future options for child care and early childhood learning, with a focus on developing a system that supports workforce participation and addresses children's learning and development needs. This inquiry is broad-ranging, including consideration of children's early learning and development needs. The inquiry's final report is due to be submitted to Government by the end of October 2014. The Government will await that report before determining future child care and early childhood learning policy.

PART 3—RECOMMENDATIONS FROM SENATOR XENOPHON

Senator Xenophon Recommendation 1
That a separate rating is provided for each of the seven NQS areas assessed by ACECQA.

Government Response: Noted.
Under the NQF, services already receive a rating for each of the seven NQS areas. It is the responsibility of Regulatory Authorities in each state and territory to assess and rate services. ACECQA's role is to provide oversight and report on the implementation of the NQF including assessment and rating against the National Quality Standard (NQS).
Under the NPA, a review must be conducted in 2014 (2014 Review) to assess the extent to which the objectives and outcomes of the NPA have been achieved. The 2014 Review is now underway and its findings will be considered by the COAG Education Council.

The scope of the review includes consideration of the NQS and the assessment rating system. The Government is committed to quality under the NQF, but is concerned by reports from parents and services that implementation is causing administrative and staffing problems, which are passed on as cost increases for families.

Pending the outcome of the 2014 Review, the Government is working with the states and territories to improve aspects of the NQF implementation and reduce regulatory burden. In April 2014 the COAG Education Council agreed to streamline the assessment and rating process.

The Government has also tasked the Productivity Commission to undertake a public inquiry into future options for child care and early childhood learning, with a focus on developing a system that supports workforce participation and addresses children's learning and development needs. This inquiry is broad-ranging, including consideration of the impact of the implementation of the NQF. The inquiry's final report is due to be submitted to Government by the end of October 2014. The Government will await that report before determining future child care and early childhood learning policy.

**Senator Xenophon Recommendation 2**

The Government consider allocating more resources to ACECQA in order to expedite the ECEC provider assessment process.

**Government Response: Noted.**

Regulatory Authorities in each state and territory are responsible for the assessment and rating of services.

**Senator Xenophon Recommendation 3**

The Government consider and provide a prompt response to NICA’s proposal for greater in-home care in Australia.

**Government Response: Noted.**

The Government has tasked the Productivity Commission to undertake a public inquiry into future options for child care and early childhood learning, with a focus on developing a system that supports workforce participation and addresses children’s learning and development needs. This inquiry is broad-ranging and is considering the types of child care available, including but not limited to: long day care, family day care, in home care including nannies and au pairs, mobile care, occasional care and outside school hours care. The inquiry's final report is due to be submitted to Government by the end of October 2014. The Government will await that report before determining future child care and early childhood learning policy.

**DOCUMENTS**

**Indigenous Tutorial Assistance Scheme**

**Tabling**

**Senator SIEWERT** (Western Australia—Australian Greens Whip) (16:00): by leave—I table a non-conforming petition from thousands of students to continue the funding of the Indigenous Tutorial Assistance Scheme to ensure that Aboriginal and Torres Strait Islander students are given the best chance to succeed at university.
MINISTERIAL STATEMENTS

Infrastructure

Senator COLBECK (Tasmania—Parliamentary Secretary to the Minister for Agriculture)

On behalf of the Prime Minister, I table a ministerial statement on infrastructure and seek leave to incorporate the statement in Hansard.

Leave granted.

The statement read as follows—

Madam Speaker, At the last election, the Coalition promised to scrap the carbon tax, stop the boats, get the Budget under control and build the roads of the 21st century.

We are honouring all these commitments—but my task today is to report on one of them, our infrastructure agenda.

I said that I intended to be the Infrastructure Prime Minister—and that part of that was delivering an annual infrastructure statement to the House of Representatives.

Today, I am pleased to report progress in building the modern infrastructure that our country needs.

Infrastructure matters.

It helps determine our quality of life as well as our country's competitiveness, productivity and living standards.

Australia needs an Infrastructure Prime Minister because for too long, infrastructure improvements have not kept pace with population growth and the needs of our people.

Too many of us have painful, first-hand knowledge of the problems with our national infrastructure, particularly in big cities.

People leave for work earlier than they did a decade ago because the traffic jams just keep getting worse and worse.

Parents rack up late fines at child care centres when freeways slow to a crawl.

Businesses see their costs rise when trucks idle in traffic.

Air travel between our cities is slower today than a generation ago—because of clogged airports and surrounding road networks.

And exports can be held up at bottlenecks in key freight networks, particularly in congested cities.

That's why building the infrastructure of the 21st century is an essential part of the Government's Economic Action Strategy to build a strong, prosperous economy and a safe, secure Australia.

This Budget committed $50 billion to infrastructure.

It's the largest infrastructure investment in our nation's history—and it's forecast to generate a record $125 billion of public and private investment in infrastructure over the next decade.

To help the states and territories, the Government has introduced an Asset Recycling Initiative.

It's an incentive for them to privatisate existing assets and reinvest the proceeds into new economic infrastructure.

Asset recycling should reassure the taxpayers who paid for assets in the first place that their investment is being preserved and their legacy built upon.

Every state and territory has signed the National Partnership on Asset Recycling that will help them to build the infrastructure they need, including, it should be said, public transport infrastructure.

It's cooperative federalism at work—as is the National Partnership Agreement on Land Transport Infrastructure.
This Partnership will make roads safer for truck drivers and for all the vehicles that share the roads with them.

It's a five year agreement and funds will flow this year to the states who've signed up.

Madam Speaker, we promised that big new projects would be underway within 12 months of a change of government and we are delivering.

In New South Wales, Australia's biggest urban road project, WestConnex, has begun, with geotechnical work underway across Stage 1 and Stage 2.

Stage 2 of WestConnex, which duplicates the M5 East, will begin ahead of schedule because the Commonwealth will provide a concessional loan of up to $2 billion on top of the $1.5 billion for Stage 1.

WestConnex will create almost 10,000 jobs during construction and, when complete, by-pass 52 traffic lights.

It will reduce travel times for the 100,000 motorists who use the motorway every day by up to 40 minutes and take 3,000 trucks a day off Parramatta Road.

The Commonwealth and New South Wales Government are working together to complete the Pacific Highway upgrade by the end of the decade.

In the past year, 32 km of the highway has been duplicated, including the Sapphire to Woolgoolga upgrade, and 397 kms or 60 per cent of final highway length is now complete.

The duplication of the Pacific Highway, combined with NorthConnex in Sydney, means that, by the end of the decade, at most there will be just two stretches of traffic lights between Melbourne and Brisbane.

In Victoria, the Commonwealth is investing $3 billion toward Melbourne's East West Link.

The East West Link will reduce travel time by up to 20 minutes for commuters travelling from Geelong to the city and beyond.

Stage 1 alone is expected to allow 100,000 vehicles each day to bypass 23 sets of traffic lights.

On 29th September, the Victorian Government signed contracts to build Stage One of East West Link.

The link has been inked.

There can be no turning back from this major project that will help tens of thousands of Victorians every day.

In South Australia, the Commonwealth has committed $944 million to upgrade the North-South Road Corridor.

This project will crate 1,000 construction jobs and early work on Ashwin Parade is already underway.

In Western Australia, the Commonwealth has committed $174 million to widen and strengthen the North West Coastal Highway, the main link between Geraldton, Carnarvon, Karratha and Port Hedland.

Construction will commence in the next month.

The Gateway WA is on track.

The Commonwealth is providing $615 million for the 40km Northlink WA project.

Planning is already underway and construction will commence in 2016.

Planning is also underway for the $1.6 billion Perth Freight Link project funded with $925 million from the Commonwealth.
In Queensland, five major projects have been completed on the Bruce Highway – at Gin Gin, Mackay, Cairns, Calliope Crossroads near Gladstone and at Burdekin.

The last section of the Townsville Ring Road will start within 12 months.

Early works have begun on the Gateway Motorway upgrade.

And the procurement process is underway for the Toowoomba Second Range Crossing, so that major construction works can start next year.

The Commonwealth's commitment of up to $1.28 billion is the largest ever federal contribution to a Queensland regional road project.

In Tasmania, the Commonwealth has committed $400 million to the Midland Highway and the Westbury Road Upgrade will be completed by the end of this year.

In the Northern Territory, the duplication of the first of the sections of Tiger Brennan Drive has been completed.

The Commonwealth has committed a further $77 million towards upgrading Northern Territory highways with planning already underway.

In addition to major road projects, the Government is spending $2.1 billion on the Roads to Recovery Programme and funding a $565 million Black Spot Programme to improve the most dangerous stretches of road throughout the country.

Then there's the Heavy Vehicle Safety and Productivity Programme providing $248 million to increase the number of rest areas and improve connections to freight networks.

There's also the $229 million National Highway Upgrade Programme for practical improvements such as shoulder and centreline widening, ripple strips and wire rope barriers.

And the Government is providing $300 million for the Bridges Renewal Programme upgrade deteriorating bridges across the nation.

Madam Speaker, airports are our gateways to the world.

For more than 50 years, governments have talked about a second airport for Sydney.

Finally, the talk is over.

We've taken the final decision that Badgerys Creek will be site of Sydney's second airport – or, as I prefer, Western Sydney's first airport.

The Government has commenced consultations with the Sydney Airport Group.

We are working up the commercial model and the airport concept designs.

Construction should begin in 2016.

By mid-century, the new airport could generate a $24 billion increase in our gross domestic product and 60,000 new jobs in Western Sydney.

It's the centrepiece of our long-term vision for Western Sydney.

And heeding past lessons, it will be a case of roads first, airport second: the roads will be built before the first plane has landed.

A $3.6 billion, 10 year partnership with the New South Wales Government is underway, starting with the upgrade of Bringelly Road.

Together, our road package and the airport will give Western Sydney the modern infrastructure it deserves.

In Hobart, environmental and design studies for the extension of the runway at Hobart Airport are underway.
This $38 million upgrade will help Hobart Airport to become the gateway to the Antarctic and give the potential for direct flights to Asia.

Planning work and consultations are currently underway on the Inland Railway between Melbourne and Brisbane which would significantly improve freight productivity compared to the coastal line via Sydney.

The Government is also getting on with the job of rolling out the NBN so that Australians will have access to very fast broadband as soon as possible, at affordable prices and the least cost to taxpayers.

This government has connected far more premises in just one year than the previous government did in five!

An independent Cost-Benefit Analysis of the NBN found that the Government’s multi-technology approach will deliver net economic and social benefits of almost $18 billion.

Madam Speaker, The Government is determined to end the dam-phobia that has largely stopped the construction of dams for the past three decades.

Water is a priceless asset especially when the vagaries of nature make it scarce.

Strengthening our water storage capabilities is essential if our country is to grow.

But we need to build the right dams in the right places.

Most dams should be feasible without government support.

But the Government is looking at some modest seed funding to help break the anti-dam mindset.

Just as we promised to end the paralysis and get projects moving on the ground, we also promised a long-term vision for Australia’s infrastructure needs and a comprehensive plan to deliver it.

We’ve passed legislation to make Infrastructure Australia more independent, robust and transparent, with a Board appointed CEO, so that states, territories, industry and the community can be confident it is working in the national interest, not just the Commonwealth’s interest.

And to see our nationally significant infrastructure needs more clearly, we’ve tasked Infrastructure Australia to develop a 15 year infrastructure plan.

The plan will cover all economic infrastructure – transport, energy, communications and water.

Infrastructure Australia will evaluate projects receiving more than $100 million in Commonwealth funding to help identify the infrastructure priorities for our future.

It's reform to build the right projects at the right time for the right price.

The work done to make costs and benefits more transparent should build deeper engagement by investors in infrastructure.

Australia is not alone in facing a greater need for infrastructure investment.

Almost every country needs more and better infrastructure to underpin jobs and growth, and almost every government lacks the resources to underwrite that investment.

Governments do not have the money to deliver on their own.

As this year's G20 President, Australia has made boosting private-sector investment in infrastructure a priority.

We're driving a Global Infrastructure Initiative for quality investment across the G20 and beyond.

Part of this initiative, is a new global infrastructure hub.

Madam Speaker, this Government is committed to building the infrastructure that will get products to market faster, that will speed up the wait for freight, and will get employees to work and home again with less time wasted in traffic.

Nothing boosts confidence like cranes in the sky and bulldozers on the ground.
It's an unmistakable sign of faith in our future.
Next year, I look forward to reporting further progress in delivering the projects we promised in our plan to build a strong and prosperous economy for a safe and secure Australia.

**BILLS**

**Freedom of Information Amendment (New Arrangements) Bill 2014**

**First Reading**

Bill received from the House of Representatives.

**Senator COLBECK** (Tasmania—Parliamentary Secretary to the Minister for Agriculture)  
(16:00): I move:  
That this bill may proceed without formalities and be now read a first time.  
Question agreed to.  
Bill read a first time.

**Second Reading**

**Senator COLBECK** (Tasmania—Parliamentary Secretary to the Minister for Agriculture)  
(16:01): I table a revised explanatory memorandum relating to the bill and I move:  
That this bill be now read a second time.  
I seek leave to have the second reading speech incorporated in *Hansard*.  
Leave granted.

*The speech read as follows—*

**FREEDOM OF INFORMATION AMENDMENT (NEW ARRANGEMENTS) BILL 2014**


The Bill will streamline arrangements for the exercise of privacy and freedom of information (FOI) functions from 1 January 2015. The Office of the Australian Information Commissioner (OAIC) will be abolished. The Australian Privacy Commissioner will continue to be responsible for functions under the Privacy Act 1988 as an independent statutory office holder within the Australian Human Rights Commission.

The Administrative Appeals Tribunal will have sole responsibility for external merits review of FOI decisions. Mandatory internal review of decisions of FOI decisions before a matter can proceed to the Administrative Appeals Tribunal will ensure access to low cost and timely review for applicants. The Tribunal will receive a funding boost to assist with processing FOI reviews.

The Commonwealth Ombudsman will be responsible for investigating complaints about actions taken by an agency under the Freedom of Information Act 1982 (the FOI Act). The Attorney-General will be responsible for FOI guidelines and collection of statistics on agency and ministerial FOI activity.

The measures in the Bill will save $10.2 million over four years, part of the Government's continuing commitment to repair the Budget.

**Merits review of FOI decisions**

The OAIC was established by the former Labor Government in 2010 to bring together oversight of privacy protection and access to government information into one agency.
This created an unnecessarily complex system, with multiple levels of external merits review for FOI matters. It also led to duplication in FOI and privacy complaint handling which has contributed to delays in these matters.

The Bill will create administrative efficiencies and reduce the burden on FOI applicants by providing that the Administrative Appeals Tribunal is the sole external merits review body. This aligns with other merits review processes across the Australian Government.

Under the new arrangements, those applicants who wish to seek review of an FOI decision will first be required to seek internal review. If an applicant is not satisfied with the internal review decision, they may apply for full merits review at the Administrative Appeals Tribunal.

The OAIC will endeavour to finalise as many FOI review applications as possible. However, there will be some reviews that are unable to be finalised before 31 December 2014.

Those applicants whose FOI review applications have not been finalised before 31 December 2014 will not be disadvantaged by the new arrangements. The Bill provides for the transfer of applications which have not been finalised to the Administrative Appeals Tribunal. No application or other fee will be payable in relation to transferred applications. This ensures that no applicant who has sought external merits review will be disadvantaged by these changes.

This Bill does not affect the legally enforceable right of every person under the FOI Act to request access to documents of an agency or official documents of a Minister. Nor does it make any changes to the objects of the FOI Act or the matters that agencies and ministers are required to consider in making decisions on FOI requests.

The Bill simply removes an unnecessary and anomalous layer of external merits review for FOI decisions. This will deliver an improved and simplified merits review system for FOI decisions and will realign responsibility and accountability for external merits review of FOI decisions with the process applicable to other government decisions.

**FOI complaints**

Those applicants who wish to make a complaint about an agency's handling of their FOI application will be able to make their complaint directly to the Ombudsman. This removes the current duplication between the OAIC and the Ombudsman in relation to the investigation of these complaints.

Any unresolved complaints which have been made to the will be transferred to the Ombudsman for completion.

**Privacy functions**

The Bill also provides for an Australian Privacy Commissioner, as an independent statutory office holder within the Australian Human Rights Commission. The Commissioner will continue to be responsible for the exercise of privacy functions under the Privacy Act and related legislation.

The Government is committed to protecting the privacy of all Australians. The current Privacy Commissioner, Mr Timothy Pilgrim, will remain as the Australian Privacy Commissioner, which will mean business as usual for the Australian Privacy Commissioner and his relationships with business.

The Commissioner and the staff supporting him will be able to seamlessly continue their measured approach to privacy protection, working cooperatively with private sector organisations and government agencies to achieve a high level of understanding and voluntary compliance.

This approach has assisted business stakeholders to view privacy as an important aspect of commercial regulation and a fundamental part of the economic infrastructure that supports business activities.

We are also committed to reducing the size of government and rationalising government agencies. That is why the independent Australian Privacy Commissioner will be housed within the Australian Human Rights Commission. This arrangement will not impact on the independence of the Australian
Privacy Commissioner as he carries out his privacy functions, nor on the Australian Human Rights Commission as it fulfils its important human rights functions. The Australian Privacy Commissioner will not be a member of the Commission nor will he subject to its direction.

Separate funding will be appropriated to the Australian Human Rights Commission for its human rights functions and for the Australian Privacy Commissioner's privacy functions. The existing staff of the Office of the Australian Information Commissioner responsible for supporting the Privacy Commissioner will become staff of the AHRC assigned to the Commissioner to support him to undertake his functions.

Conclusion
These institutional arrangements will reduce the size of government, streamline the delivery of government services and reduce duplication. It will mean business as usual for privacy and largely restore the system for the management of freedom of information in place before the establishment of the Office of the Australian Information Commissioner on 1 November 2010.

This Bill makes it easier for applicants to exercise their rights under privacy and FOI legislation.

The DEPUTY PRESIDENT: In accordance with standing order 115(3) further consideration of this bill is now adjourned until 25 November 2014.

Social Security Legislation Amendment (Strengthening the Job Seeker Compliance Framework) Bill 2014

First Reading
Bill received from the House of Representatives.

Senator COLBECK (Tasmania—Parliamentary Secretary to the Minister for Agriculture) (16:02): I move:
That this bill may proceed without formalities and be now read a first time.
Question agreed to.
Bill read a first time.

Second Reading
Senator COLBECK (Tasmania—Parliamentary Secretary to the Minister for Agriculture) (16:02): I move:
That this bill be now read a second time.
I seek leave to have the second reading speech incorporated in Hansard.
Leave granted.

The speech read as follows—

SOCIAL SECURITY LEGISLATION AMENDMENT (STRENGTHENING THE JOB SEEKER COMPLIANCE FRAMEWORK) BILL 2014

Today I introduce the Social Security Legislation Amendment (Strengthening the Job Seeker Compliance Framework) Bill 2014.

This Bill will ensure that more job seekers in receipt of income support meet their mutual obligation requirements to attend scheduled appointments with their employment provider.

This will help to promote a more efficient employment services system and enhance the integrity of our social security system.

It has long been a feature of our social security system that unemployed people in receipt of income support are asked to do certain activities in return for that taxpayer funded benefit.
This concept has also received bi-partisan support over the years.

One of the activities that job seekers are asked to do is attend scheduled appointments with their employment provider to discuss job options and to review progress in finding work.

These appointments are not onerous and are designed to maximise the chances of a person moving from welfare to work.

Most job seekers are required to attend an appointment with their employment provider only once a month.

Appointments are generally of short duration and take into account the job seeker's capacity to attend at certain times.

Job seekers are given clear and reasonable notice of the appointments, and are also given reminders of their appointments.

This is done both formally—in person or in writing, including time, date, place, and informally via SMS, phone, or email.

Job seekers are also informed in advance that a failure to attend an appointment without giving prior notice may result in suspension of their payment or the imposition of a penalty.

If a job seeker contacts their provider ahead of the scheduled appointment to let them know they are unable to attend due to a good reason—then no suspension of payment or penalty is applied.

And if it is subsequently found that a job seeker has a reasonable excuse for the failure to attend and the failure to notify ahead of time—then no suspension of payment or penalty is applied.

These are common sense rules in keeping with the types of behaviours and standards expected in the workplace.

However—despite these flexibilities—attendance rates by job seekers at appointments with their employment provider remain unacceptably low.

In the 2012-13 financial year, while 11.6 million compulsory appointments with employment providers were scheduled—a staggering 4.3 million of these appointments were not attended by job seekers.

This is an attendance rate of only 63 per cent and a non-attendance rate of 37 per cent.

Similarly, in the 2013-14 financial year 12.75 million compulsory appointments with employment providers were scheduled—and of these 4.47 million were not attended by job seekers.

This is an attendance rate of only 65% and a non-attendance rate of 35%.

This sheer volume of missed appointments creates a huge red tape burden and additional costs for employment providers.

Instead of helping people with their job search, front line staff end up wasting time trying to contact the job seeker to reschedule and in submitting reports to the Department of Human Services.

All of this extra effort on the part of employment providers could be avoided if more job seekers did the right thing first time by either attending the scheduled appointment or picking up the phone to reschedule ahead of time if they are unable to attend.

This is not a big ask.

Apart from the impost on employment providers, the sheer number of people not meeting this requirement undermines the integrity of our income support system.

In 2012-13, over 238,000 job seekers had at least one participation failure applied by the Department of Human Services for missing a regular appointment or a reconnection appointment with their employment provider.
In 2013-14, this had grown to almost 280,000 job seekers. That is more than one in five of all job seekers who received an activity tested payment at some time during the year.

The Department of Human Services only applies these participation failures after a series of checks and balances—such as whether the person should have been required to attend the appointment, whether they had a reasonable excuse or if the notification of the appointment had been sent to the wrong address.

So it is clear, that there are 280,000 cases each year where both the person's employment provider and the Department of Human Services agree that there were no extenuating circumstances that explains the job seeker's failure to attend.

Keeping the current rules in place which allow this number of people to fail to attend is not fair by those taxpayers who get up every day to go to work and pay their taxes that help to fund income support payments and our employment services system.

Workers are expected to keep commitments—like appointments—in return for their wages and the same sort of standards should be expected of job seekers in receipt of taxpayer funded income support.

In 2011, the former Government introduced legislation that tightened the rules for those job seekers who did not attend appointments.

The then Minister for Employment Participation—the current Member for Adelaide—commenting on the then attendance rate said 'I believe that attendance at appointments can and must improve. This is why we made an election commitment to strengthen the compliance system'.

The then Minister also went on to say that 'All Australians on income support should have the opportunity of work—but with the opportunity comes responsibility—and with this Bill we are going to firmly expect that people meet those responsibilities.'

We on this side of the House—when in Opposition—supported these measures as a positive first step towards improving attendance rates.

Unfortunately, while the measures introduced have made a modest improvement to the attendance rate—the larger problem still remains.

As I mentioned, 35 per cent of all scheduled appointments are missed each year and more than one in five of all job seekers who receive a payment in any year will have at least one participation failure applied for missing an appointment with their provider.

It is time to make further changes to drive improved attendance rates and reduce the red tape burden and financial strain on employment providers and our social security system.

The Bill will achieve this by introducing stronger incentives so that more job seekers do the right thing first time round.

Currently, a job seeker who has their income support payment suspended because they failed to attend an appointment can get that suspension lifted simply by indicating they will attend another appointment.

That is a person can simply say they will attend another appointment—even if they have no real intention of doing so—and still get their income support payment.

Given the sheer number of regular and reconnection appointments that are missed each year—it is clear that the current arrangements are not providing a sufficient incentive for job seekers to do the right thing.

More needs to be done to ensure that more job seekers are attending appointments and not wasting provider's time.
From 1st January 2015, this Bill would ensure that job seekers who have their payment suspended for missing an appointment with their provider—without giving prior notice of a valid reason—will typically only have their suspension lifted when they actually attend another appointment.

This will provide a stronger incentive for job seekers to attend their appointments and remain engaged with their employment provider.

From 1 July 2015, the Bill will further strengthen compliance arrangements by providing that, if a job seeker has had their income support payment suspended for failing to attend a regular appointment with their employment provider—and it is subsequently determined that they have no reasonable excuse for that failure to attend—then they will not be back paid for the period of non-compliance.

This provides a much stronger incentive for job seekers to either attend their scheduled appointment in the first place or to pick up the phone ahead of time, explain why they are unable to attend, and where it reasonable—get the appointment changed.

This is what is expected of people in the workplace if they cannot make it to work and it is only fair and reasonable that a similar standard is applied to those people in receipt of taxpayer funded benefits.

The Bill does not change the rules with regard to reasonable excuses.

The Bill will not impact those whose failure to attend is beyond their control, for instance, where they were taken ill or had an unexpected caring commitment and gave prior notice.

And it will not impact the majority of job seekers who attend their appointments or those who let their provider know in advance if they genuinely cannot attend.

As is the case now, job seekers with a reasonable excuse will not have the suspension or penalty applied if they gave prior notice.

In addition, employment providers will remain able to exercise discretion in when they report a failure to the Department of Human Services.

The Bill will not remove any of the current safeguards in the system that are designed to ensure that vulnerable job seekers do not incur penalties inappropriately.

Other amendments

The Bill will also make changes to provisions that allow job seekers who are 55 years or older and have a full time mutual obligation requirement to meet that requirement just by undertaking part-time voluntary work or paid work.

With an ageing population, it is important to encourage older people to continue to participate in the workforce, both for the good of the economy and so that they themselves continue to enjoy the benefits of working.

The Australian Government believes it is vital we increase mature age workforce participation, and through the Restart programme we are providing strong financial incentives to employers of up to $10,000 to employ an eligible mature age worker.

Yet the current legislation effectively allows some job seekers to become parked on income support at 55 years.

This Bill will introduce a provision that will allow cohorts of job seekers who are specified in a legislative instrument to be precluded from these provisions.

These job seekers would continue to participate in employment services and will be required to look for full-time work.

For example, it is intended that job seekers aged 55 to 59 years old who would currently be in Job Services Australia would be specified in the instrument.

The Bill also makes minor changes to broaden the existing delegation power under social security law to include regulations or other instruments made under the social security law.
The main impetus for this amendment relates to recent legislative instruments for the Job Commitment Bonus, which contain Secretarial powers that will need to be exercised from 1 July 2015.

**Conclusion**

The Australian Government is committed to building a more efficient and effective employment services system that helps more job seekers into work.

The Government is also committed to ensuring the integrity of our income support system so that is affordable and sustainable over the long term.

In order to do this, we need a strong job seeker compliance framework that includes appropriate incentives and sanctions for job seekers.

While the previous Government's changes resulted in a modest improvement—it is well short of what is needed.

This Bill builds on the changes made in 2011 by introducing new incentives to drive a more widespread change in job seeker behaviour.

The Government is determined to reduce the number of missed appointments each year so as to reduce the red tape burden and costs on employment providers.

The Government does not consider it acceptable that job seekers miss nearly 4.5 million appointments every year when it is a simple task to pick up the phone and reschedule.

The Government does not consider it acceptable that more than one in five of all job seekers in receipt of payment each year have at least one participation failure applied for missing an appointment with their provider.

These figures show that the problem Labor tried to resolve in 2011 persists and that further change is needed if we are to see a significant reduction in these numbers.

The changes proposed will provide stronger incentives for job seekers to take responsibility and take appropriate action in the first place.

This is the sort of respect and courtesy expected in the workplace and it is only appropriate that job seekers treat their employment providers the same way.

All the existing rules with regard to reasonable excuses and protection for vulnerable job seekers remain in place.

Recently, the Government announced its proposed model for a new employment services system.

The Government is investing $5.1 billion over three years in a new model that is designed to drive stronger performance and better outcomes for job seekers.

The Government is committed to reducing red tape for employment providers so that they have more time to spend on what they do best—namely helping job seekers with finding and keeping a job.

This Bill will markedly improve attendance rates at employment provider appointments and reduce the costs and impact for employment providers, whilst also maintaining taxpayer confidence in our social security system.

I commend the Bill to the House.

**The DEPUTY PRESIDENT:** In accordance with standing order 115(3) further consideration of this bill is now adjourned until 24 November 2014.
Omnibus Repeal Day (Spring 2014) Bill 2014
Amending Acts 1970 to 1979 Repeal Bill 2014
Statute Law Revision Bill (No. 2) 2014

First Reading

Bills received from the House of Representatives.

Senator COLBECK (Tasmania—Parliamentary Secretary to the Minister for Agriculture) (16:03): I move:
That these bills may proceed without formalities, may be taken together and be now read a first time.
Question agreed to.
Bills read a first time.

Second Reading

Senator COLBECK (Tasmania—Parliamentary Secretary to the Minister for Agriculture) (16:03): I move:
That these bills be now read a second time.
I seek leave to have the second reading speeches incorporated in Hansard.
Leave granted.

The speeches read as follows—

OMNIBUS REPEAL DAY (SPRING 2014) BILL 2014

The Abbott Government is getting on with doing what we said we would do, cutting $1 billion in unnecessary and costly red and green tape each year.

As part of 2014 Spring Repeal Day, ministers and parliamentary secretaries from six portfolios will introduce 11 bills that are deregulatory in nature and will deliver additional, significant compliance cost savings.

Together this bill (the Omnibus Repeal Day (Spring 2014) Bill 2014), and the Amending Acts 1970 to 1979 Repeal Bill 2014 and Statute Law Revision Bill (No. 2) 2014, which I will also introduce, and the Spent and Redundant Instruments Repeal Regulation 2014 (No. 2), which I will table, are whole-of-government initiatives that repeal nearly 1,000 pieces and more than 7,200 pages of legislation and regulations.

This is in addition to the bills that were introduced as part of the 2014 Autumn Repeal Day, which repealed over 10,000 pieces and 50,000 pages of legislation and regulations. This brings the total, net compliance savings for individuals, businesses and the not-for-profit sector to $2.1 billion, which is more than double the Government's annual red tape reduction target.

The Omnibus Repeal Day Bill itself contains 26 deregulatory measures from across nine portfolios that are more appropriately contained in an omnibus bill than in individual stand-alone bills and have a compliance cost saving of $1.4 million.

The Bill abolishes bodies, repeals spent and redundant provisions and acts, and streamlines processes.

Abolished bodies

In addition to the 75 bodies repealed since the election, the Bill abolishes three bodies:
the Product Stewardship Advisory Group;
the Oil Stewardship Advisory Council; and
the Fishing Industry Policy Council.

The Product Stewardship Advisory Group was created in December 2012 to advise the Minister for Environment on a list of classes of products that should be accredited or regulated under the Product Stewardship Act 2011, but the Department of the Environment already consults industry on the list on an "as needs" basis. For example, in 2014-2015, after consultation with industry, end-of-life batteries, end-of-life air conditioners and refrigerators with small gas charges, and various types of paint and packaging were included on the list. The purpose of this statutory body is better fulfilled by the Department and consequently, the body will be abolished.

Similarly, the Oil Stewardship Advisory Council will be abolished, as the Department of the Environment is better placed to consult with industry on an "as needs" basis in relation to product stewardship arrangements for oils and the recovery and recycling of used oils under the Product Stewardship (Oil) Act 2000.

The Fishing Industry Policy Council is a ministerial advisory council in the agriculture portfolio that has not been convened since the Fisheries Administration Act commenced in 1991. The purpose of the Council was to consult and advise on matters affecting the industry, but other bodies, including fisheries management advisory committees, better fulfil this purpose. This repeal is supported by the Review of Commonwealth Fisheries: Legislation, Policy and Management, which was published in December 2012.

**Spent and redundant acts**

The Bill also repeals spent and redundant provisions and acts.

Examples of spent and redundant provisions that will be repealed include:

- obsolete provisions of the Rural Adjustment Act 1992 relating to the Rural Adjustment Scheme and the Farm Business Improvement Program, which, following the 2008-09 national review of drought policy and extensive stakeholder consultation over the past five years, have ceased and have been superseded by new approaches to providing farm support, including the farm household allowance;

- consultation provisions in the Broadcasting Service Act 1992, the Interactive Gambling Act 2001, the Radiocommunications Act 1992 and the Telecommunications Act 1997, which are duplicated by the Legislative Instruments Act 2003. These specific consultation provisions are considered unnecessary as section 17 of the Legislative Instruments Act requires a rule-maker to be satisfied that appropriate and reasonably practicable consultation has been undertaken prior to making a legislative instrument; and

- various social security payments from the Social Security Act 1991 and various veterans' payments under the Veterans' Entitlements Act 1986, including one-off payments where the last test date for the payments has long passed and people are no longer able to qualify for the payments.

Examples of spent and redundant acts that will be repealed include:

- The Home and Community Care Act 1985 (HACC), which was made redundant in the context of the Intergovernmental Agreement on Federal Financial Relations of 2008. Since then, there has been a separation of roles and responsibilities in relation to HACC in all states and territories, except Victoria and Western Australia, where negotiations continue. Repealing this legislation is consistent with the Government's commitment to remove redundant legislation and will not impact on the Victoria or Western Australian governments or HACC providers in these states, which remain governed by the HACC Review Agreement; and

- the Papua and New Guinea Loan (International Bank) Act 1970, which relates to a guarantee of a 1973 loan to PNG that matured in 1994 and that the Bank for Reconstruction and Development has confirmed has been repaid in full.

Together with the Amending Acts and the Statute Law Revision, this Bill will repeal over 650 Commonwealth Acts.
Streamlining processes

The Bill also streamlines processes by, for example:

modernising publication requirements for the Australian Communication and Media Authority under the Broadcasting Services Act 1992. ACMA will no longer be required to publish a notice in the Commonwealth Gazette when determining, varying or revoking a program standard, but instead, must publish a notice both "on the ACMA's website" and "in one or more forms that are readily accessible to the public". These amendments will provide ACMA with increased flexibility to choose a method of publication that is most appropriate to reach its target audience and will better alert stakeholders to regulatory change;

no longer requiring fuel producers and suppliers who (under the Fuel Quality Standards Act 2000) already report certain information on a monthly basis to the Bureau of Resources and Energy Economics for the compilation of the Australian Petroleum Statistics, to report that information on an annual basis under the act as well. The Australian Petroleum Statistics provides monthly national and state petroleum statistical information about the sales of petroleum products; exports and imports of petroleum products and crude oil; production of crude oil and condensate; refinery input and output; and stocks of petroleum products. As such, the requirements under the act can be repealed; and

amending the Aged Care Act 1997 so that aged care providers, who are currently required to notify the Department of Social Service of changes to key personnel within 28 days, will instead only have to notify the Department of changes that materially affect the provider's suitability to provide care.

Conclusion

In conclusion, this bill, the Omnibus Repeal Day (Spring 2014) Bill 2014, is the first of 11 bills in the Government's 2014 Spring Repeal Day package. Together with the Amending Acts 1970 to 1979 Repeal Bill 2014 and the Statute Law Revision Bill (No.2) 2014, it will repeal nearly 1,000 pieces and more than 7,200 pages of legislation and regulations and together with the 2014 Autumn Repeal Day package, which repealed over 10,000 pieces and 50,000 pages of legislation and regulations, brings the total, net compliance savings for individuals, businesses and the not-for-profit sector to $2.1 billion, which is more than double the Government's annual red tape reduction target.

I commend this bill and the entire 2014 Spring Repeal Day Package to the Chamber.
At present, the acts proposed to be repealed in this Bill form part of the current law and it is not obvious whether the acts have force in and of themselves.

Repealing these acts will remove any confusion about the status of these laws. It will also facilitate the publication of consolidated versions of acts by the Commonwealth and by private publishers of legislation.

People with a specific interest in the legislation can continue to access these acts as they will remain publically available on ComLaw as historical records.

The Bill repeals, for example:
- over 40 acts that amended numerous, different sales tax acts. Nine principal Acts from the 1930s, titled the Sales Tax Act (No. 1) 1930 through to Sales Tax Act (No. 9) 1930, were each amended in 1970, 1975 and 1978 and these amending acts will be repealed as the principal acts became inoperative in 2006 following the introduction of the goods and services tax on 1 July 2000;
- the Anglo-Australian Telescope Agreement Act 1971. This Act amended the now repealed principal Act of 1970 by updating the title of the Compensation Act which applied to Australian members of the Anglo-Australian Telescope Board. The Board has since been dissolved and is now part of the Australian Astronomical Observatory in the Department of Industry; and
- the Australian Federal Police (Consequential Amendments) Act 1979, which amended certain acts in connection with the enactment of the Australian Federal Police Act 1979. It replaced provisions referring to the 'Commonwealth Police Force' with the newly formed 'Australian Federal Police' in the Fisheries Act 1952 and National Parks and Wildlife Conservation Act 1975, and references to 'Commonwealth Police Officer or member' with 'member of the Australian Federal Police' in the Crimes Act 1914 and Commonwealth Prisoners Act 1967. These consequential amendments happened over 30 years ago and the amending act will be repealed.

There are numerous other items contained in schedule 1 of the Bill which amend a principal act multiple times over the decade and are no longer necessary.

Amending acts enacted after 1979 will be repealed on future repeal days.

I commend this bill and the entire 2014 Spring Repeal Day Package to the Chamber.

STATUTE LAW REVISION BILL (NO. 2) 2014

The Statute Law Revision Bill (No. 2) 2014 is the third bill in the Government's 2014 Spring Repeal Day package.

The Bill continues the work of the Statute Law Revision Bill (No. 1) 2014, which was part of the 2014 Autumn Repeal Day, correcting minor errors in the statute book and repealing spent or redundant legislation. The Bill:
- removes provisions that are obsolete or no longer have effect;
- corrects outdated terminology and removes gender-specific language; and
- improves the useability of the Veterans' Entitlements Act 1986 by consolidating and better signposting the Act's definitions.

By improving the accuracy and useability of legislation, the Bill will save individuals, businesses and community organisations time and money and has a compliance cost saving of $0.42 million.

Schedules 1 and 2 to the Bill have two main purposes:
- correcting minor technical errors in principal acts, such as typographical and numbering errors; and
- correcting errors in amending acts, such as misdescribed amendments.

Correcting these legislative provisions helps make the law easier to understand and use.
Schedule 3 to the Bill updates outdated language in a number of Acts in two respects, by:

- replacing the word ‘servant’ with ‘employee’; and
- removing gender-specific language.

These changes improve the relevance and inclusiveness of Commonwealth legislation.

Schedule 4 to the Bill improves the way that defined terms are managed in the Veterans’ Entitlements Act 1986. These changes mean that users can refer to one main provision to find a definition that applies throughout the Act, or the definition’s location elsewhere in the Act, rather than needing to peruse over 25 definitions sections. Schedule 4 also makes minor technical amendments to improve the usability of the Act.

Schedules 5 and 6 of the Bill repeal spent or obsolete provisions and acts. For example:

- The Broadcasting Services Act 1992, which set annual captioning targets for the 2012-2013 and 2013-2014 financial years for commercial television broadcasting licensees and national broadcasters. As those financial years have ended, the provisions that set the targets can now be removed from the statute book.

- The Immigration (Education) Charge Act 1992, which imposed an English Education Charge on non-citizens whose applications for stay visas were made between 1993 and 1997. As those non-citizens will have completed their tuition by now, the Act can be repealed.

This work to correct minor errors in the statute book and repealing spent or redundant legislation will continue in future repeal days.

I commend this bill and the entire 2014 Spring Repeal Day Package to the Chamber.

Debate adjourned.

COMMITTEES

Membership

The DEPUTY PRESIDENT (16:04): The President has received letters from party leaders requesting changes in the party membership of committees.

Senator COLBECK (Tasmania—Parliamentary Secretary to the Minister for Agriculture) (16:04): by leave—I move:

Economics Legislation Committee—

   Appointed—

   Substitute member: Senator Carr to replace Senator Dastyari for the committee's inquiry into the Automotive Transformation Scheme Amendment Bill 2014, from 13 November 2014

   Participating member: Senator Dastyari

Legal and Constitutional Affairs References Committee—

   Appointed—

   Substitute member: Senator McKenzie to replace Senator Macdonald from 11 am on Friday, 31 October 2014

   Participating member: Senator Macdonald

Trade and Investment Growth—Joint Select Committee—

   Appointed—Senator Lazarus.

Question agreed to.
Rural and Regional Affairs and Transport References Committee
Reference

Senator LINES (Western Australia) (16:05): At the request of the Chair of the Rural and Regional Affairs and Transport References Committee (Senator Sterle), I move:

That the following matter be referred to the Rural and Regional Affairs and Transport References Committee for inquiry and report by 9 September 2015.

Aspects of road safety in Australia, having particular regard to:
(a) the social and economic cost of road-related injury and death;
(b) the importance of design standards on imported vehicles, as Australian vehicle manufacturing winds down;
(c) the impact of new technologies and advancements in understanding of vehicle design and road safety;
(d) the different considerations affecting road safety in urban, regional and rural areas; and
(e) other associated matters.

Senator FIFIELD (Victoria—Manager of Government Business in the Senate and Assistant Minister for Social Services) (16:05): Mr Deputy President, I seek leave to make a short statement.

The DEPUTY PRESIDENT: Leave is granted for one minute.

Senator FIFIELD: The government is committed to cut the road toll and road trauma and is currently taking forward work in each of the areas that Senator Sterle has proposed be referred to the Senate Rural and Regional Affairs and Transport References Committee. Consistent with the Australian government's commitment to improve road safety, while reducing red tape, the government is currently undertaking a review of the Motor Vehicle Standards Act 1989. This review will strike the balance between appropriate safety standards, in line with international best practice and consumer access to vehicles at the lowest possible cost.

The government is also undertaking a mid-term update of the National Road Safety Strategy, which will be completed later this year. This work will establish a refreshed set of national priority actions to focus the efforts of all jurisdictions over the next three years. Transport ministers from all states and territories will consider these priority actions at the November meeting of the Transport and Infrastructure Council. In the coming months the government will also complete a review of the full impacts of road trauma. The review will evaluate the benefits and costs associated with the different road safety approaches adopted by various jurisdictions. The review will include an examination of the whole road safety system. For these reasons, the government will not be supporting the referral of these matters to the Senate Rural and Regional Affairs and Transport References Committee for inquiry because to refer these matters to the committee would only duplicate effort.

The PRESIDENT: The question is that business of the Senate notice of motion No. 1, moved by Senator Lines on behalf of Senator Sterle, be agreed to.
The Senate divided. [16:11]

(The President—Senator Parry)

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

AYES

Bilyk, CL
Collins, JMA
Dastyari, S
Faulkner, J
Hanson-Young, SC
Lambie, J
Lines, S
Lundy, KA
Marshall, GM
McLucas, J
Moore, CM
O’Neill, DM
Polley, H
Rice, J
Singh, LM
Wang, Z
Wong, P
Xenophon, N

Bullock, J.W.
Conroy, SM
Di Natale, R
Gallacher, AM
Ketter, CR
Lazarus, GP
Ludlam, S
Madigan, JJ
McEwen, A (teller)
Milne, C
Muir, R
Peris, N
Rhiannon, L
Siewert, R
Sterle, G
Whish-Wilson, PS
Wright, PL

NOES

Abetz, E
Birmingham, SJ
Canavan, M.J.
Colbeck, R
Edwards, S
Fifield, MP
Johnston, D
Macdonald, ID
McGrath, J
Nash, F
Parry, S
Reynolds, L
Ruston, A
Seselja, Z
Williams, JR

Bernardi, C
Bushby, DC (teller)
Cash, MC
Day, R.J.
Fawcett, DJ
Heffernan, W
Leonhjelm, DE
Mason, B
McKenzie, B
O’Sullivan, B
Payne, MA
Ronaldson, M
Ryan, SM
Sinodinos, A

Question agreed to.

**Economics References Committee Reference**

**Senator DASTYARI** (New South Wales) (16:13): I move:

That the following matter be referred to the Rural and Regional Affairs and Transport References Committee for inquiry and report by 2 March 2015:
Incentives to privatise state or territory assets and recycle the proceeds into new infrastructure, with particular reference to:

(a) the role of the Commonwealth in working with states and territories to fund nation building infrastructure, including:
   (i) the appropriateness of the Commonwealth providing funding, and
   (ii) the capacity of the Commonwealth to contribute an additional 15 per cent, or alternative amounts, of reinvested sale proceeds;
(b) the economics of incentives to privatise assets;
(c) what safeguards would be necessary to ensure any privatisations were in the interests of the state or territory, the Commonwealth and the public;
(d) the process for evaluating potential projects and for making recommendations about grants payments, including the application of cost benefit analyses and measurement of productivity and other benefits;
(e) parliamentary scrutiny;
(f) alternative mechanisms for funding infrastructure development in states and territories;
(g) equity impacts between states and territories arising from Commonwealth incentives for future asset sales; and
(h) any related matter.

Senator WHISH-WILSON (Tasmania) (16:13): I move, as an amendment to the motion standing in Senator Dastyari’s name:

Omit “Rural and Regional Affairs and Transport References Committee”, substitute ”Economics References Committee”.

Question agreed to.
Original question, as amended, agreed to.

MOTIONS

Fuel Excise

Senator BULLOCK (Western Australia) (16:15): At the request of Senator Moore, I move:

That the Senate notes the Abbott Government’s petrol tax ambush and its negative impact on cost pressures facing Australian households and businesses.

I am aware of an amendment about to be moved by Senator Lazarus with respect to this motion. It is now just over a year since the Australian people accepted the word of the then opposition leader and voted to put the grown-ups back in charge and elected the 'no surprises, no excuses government' you could trust. The Liberals said you could trust them. They ran a unity ticket with Labor on the Gonski reforms. They promised no cuts to health, no cuts to education, no changes to pensions, no adverse changes to superannuation and no new taxes.

Mr Abbott told the Australian people at his campaign launch in August last year that Australians were:

… sick of nasty surprises and lame excuses from people that you have trusted with your future.

Amen to that! Just 12 months later this government has established a remarkable record. It is a record of broken promises that is possibly unequalled—a record of nasty surprises and lame excuses. Gonski has gone. Education has been cut. Health has been cut. Pensioners who rely
on the government—and many of them put their faith in this government—have been betrayed by this government. This has ensured that their standard of living will fall relative to the rest of the community by decoupling increases to the pension from increases in wages. This government vies with Brutus for inflicting the unkindest cut of all on a most vulnerable section of the community who have no alternative other than to accept what they are offered by this heartless government.

I have already questioned Senator Abetz on the adverse change to the superannuation entitlements of Australian workers entailed by the freezing of their superannuation contributions for seven years—not six years as Senator Cormann lamely claimed in mitigation—and delaying the increase to 12 per cent until 2025. Senator Abetz's excuse for breaking this promise to the working people of Australia was:

… sometimes it is worthwhile to say no pay increase to protect jobs.

The government has broken its promise to the workers of Australia and told them to be thankful that they have a job—thankful, indeed, that they do not work in the vehicle industry, which this government has dispatched from our shores. What a lame excuse!

The list of broken promises goes on and on, and today it is our turn to examine the wreckage of the no new taxes promise and, in particular, the new tax on petrol. The current petrol tax regime is a legacy of Australia's second longest serving Prime Minister, John Howard. Mr Howard may not have experienced the love affair with the Australian people enjoyed by the great Labor Prime Minister Bob Hawke, but at least he could take their political temperature. In 2001 he stood out against the ideologues in his own party and made a decision on petrol which arguably saved his government. In 2001 John Howard abolished the automatic half-yearly excise indexation, and this is what he said on 1 March of that year:

Now that is an enormous structural change in the area of fuel taxation and, I mean, for those who adopt a lazy approach to raising revenue this will not be welcome. But for those who believe that greater disciplines can be put on government it will be welcome.

I do not for a moment accept the continuing negative commentary of the government that the Australian economy is in crisis—at least it was not in September last year when Labor left office. Although, with the progressive shutting down of Australia's manufacturing industry encouraged by this government and the associated steady rising of the unemployment rate, the economic chickens of this government may soon be coming home to roost. Nevertheless, if we were in a crisis, we would not expect the government of grown-ups to take the 'lazy approach to raising revenue' or to eschew the 'greater disciplines that can be put on government', as advocated by Mr Howard.

The Prime Minister should follow in the footsteps of his mentor, Mr Howard, and scrap this new tax on everything. Mr Howard was a big enough man to admit that he had been wrong in advocating fuel excise indexation. He said:

Let me make it clear that I was plainly wrong in not understanding some of the concerns held by the Australian people about the price of petrol, and I acknowledge that.

This government needs to follow the example of Mr Howard, acknowledge the interests of Australian people, admit that they were plainly wrong, abandon the lazy approach to raising revenue and scrap this tax. Mr Howard sought, through his actions, to bind future governments. He said that his decision would impose what motorists would see as a very
welcome discipline on future governments. How disappointed Mr Howard will be to see that it is a coalition government which is abandoning the discipline which he sought to impose. While I would not claim that Mr Howard always acted in the interests of working people, particularly in his later, politically disastrous Work Choices years, there was a time when his understanding of working people—of Howard's battlers—won him elections. He understood the sensitivity of working people to petrol prices and legislated accordingly.

What is the level of understanding shown by this government? I was reminded of Michael Keaton's character in the movie Multiplicity when the current Treasurer Mr Hockey, like Peter Costello's dimwitted clone, claimed that his new tax was progressive because the poorest people either do not have cars or, if they do, do not drive them very far. If Mr Hockey had ever visited the outer suburbs of a major city, he may have been surprised to find large numbers of low-income families living there. He may also have discovered, as Professor Currie found in his 2008 research with respect to Melbourne, that the average car trip in the outer suburbs is 16.4 kilometres, whereas, in the inner suburbs, home to the more high-income families, the average car trip is only 6.4 kilometres. He may also have found that the outer suburbs are particularly ill-served by public transport. What this means for working people, Professor Currie found, was that 90 per cent of workers in outer suburbs use their cars to get to work, compared to just 65 per cent across Melbourne as a whole. For low-income outer-suburban families, you need a car to have a job.

And what of the unemployed? Having relatively prospered throughout the global financial crisis, as a result of the bold initiatives by Labor's courageous and underrated Treasurer Wayne Swan, Australia's unemployment rate is now somewhere over six per cent. I cannot be exactly sure, because of the crisis in the ABS overseen by this government. Our unemployment rate is now higher than the United States', for the first time in years. The unemployed are told to apply for more jobs. Petrol stations report an increasing number of motorists putting a minimum $5 petrol purchase in their cars. Like everyone else, these people would love to fill 'er up, but just cannot afford to do so. The $5 just gets them to their next job interview. Tell these people that an extra petrol tax is insignificant and does not matter. It does matter.

The government's senators have shown a liking for quoting the ABC's FactCheck when it suits them. This is what FactCheck said about the impact of the new petrol tax:

High income Australians spend more in absolute dollar terms on fuel, so will pay more fuel tax than lower income households.

However, as a proportion of gross income and weekly spending, fuel bills hit lower income families harder.

Census data and research from independent experts shows that people on lower incomes have enough cars and drive far enough to feel the impact of raising the fuel tax more than those on higher incomes.

So this new tax, this lazy approach to raising revenue, will hit low-income families hard. In this regard, it is like the new 15 per cent tax on superannuation contributions for workers earning less than $37,000 a year. It hits low-income earners. It is like the new proposed goods and services tax on food, which is part of the Prime Minister's 'mature debate' on the GST. It hits low-income earners hard. It is like the proposed lift in the rate of GST from 10 per cent to 12 per cent. The GST hits hardest those who spend the greatest part of their income. Low-income earners tend to spend the lot. A higher GST hits low-income earners hard. It is like the
$7 GP tax. It hits low-income earners hard. All of these new taxes hit low-income earners. 'No new taxes'? What a joke!

Senator Cormann says that the new petrol tax is not a new tax at all; it is merely adjusting the rate of an existing tax. What a pathetic excuse! The government might just as well claim that, when it said, 'No cuts to health, no cuts to education, no change to pension arrangements, no adverse changes to superannuation, no surprises, no excuses, no cuts to the ABC and no new taxes,' the word 'no' was merely an inadvertent typographical error—as claimed by Mr Abetz today in answer to a question. Those excuses are just as lame as their current excuses.

When John Howard scrapped the indexation of the fuel excise, he said:

… what that means is that if a future government of whatever stripe wants to increase the excise on petrol that government will have to pass a bill to increase it.

This current government has tried to sneak around that requirement, but what Labor says on behalf of the working people of Australia is: don't do it.

Senator SESELJA (Australian Capital Territory) (16:26): I did want to start with a brief rebuttal of some of the issues that Senator Bullock raised, because he did go a little bit beyond the motion—and I will stick to the motion, I assure you, Mr Acting Deputy President, but I do have to rebut some of the statements that were made and some of the assertions that were made on a range of issues by Senator Bullock. He touched on things like superannuation, car industry jobs and unemployment. I want to touch on those before I go to the detail of the motion before us.

Firstly, on superannuation: we heard it again from Senator Bullock, and it seems to be this modern Labor Party approach—or, at least, a post Hawke-Keating approach—which is blind, it seems, to the impacts of policy. What Senator Bullock seems to be suggesting on superannuation and what Labor seems to be suggesting is: when you increase compulsory super, there is no impact. You can do it. It is always a good thing. It never has any impact. Of course, economists will tell you different. They will just tell you that it is a deferred pay rise. Bill Shorten has said that it comes out of your wages. There is less money for wages. If you do not believe that, Senator Bullock, and if you think that what virtually every economist says—and what Bill Shorten has said is true, then you would double or triple compulsory super, because it would have no impact. We know, of course, that—

Senator Bullock interjecting—

Senator SESELJA: But that is the logical extension, Senator Bullock, of what you are saying, because if it has no impact on wages, if it has no impact on businesses, then jack it up as high as you like! It is a magic pudding! We know that that is not true. We know that as compulsory super goes up there is less money for wage rises. That is a fact. And no serious economist will dispute that. So we believe in compulsory superannuation, but if you do not increase it as quickly as the Labor Party would like, that does mean that there is more money for people's wages. It means that people have that money now, to choose what to do with. They can choose to put it into their super. They can choose to put it into their mortgage. They can choose to live a different lifestyle. That is an individual choice for individuals and families to make, not one to have dictated to them by governments.

Senator Bullock touched on car industry jobs.
Senator Lines interjecting—

Senator SESELJA: 'No understanding'—I hear from Sue Lines about how I have got no understanding of the magic pudding theory on superannuation and everything else.

The ACTING DEPUTY PRESIDENT (Senator Sterle): Order! Senator Seselja, I would urge you to ignore the interjections. If you could refer to senators by their official titles, it would be appreciated. Please just direct your comments through the chair.

Senator SESELJA: I do apologise. You are correct. I will do that. I will not respond to interjections from Senator Lines or anyone else, regardless of how ignorant they may be. Let us just deal with it. Let us just deal with the issues that the likes of Senator Lines raise. That is, again, this magic-pudding theory when it comes to superannuation. That is that there is a magic pot of money and that if you increase compulsory superannuation, it has no impact. Well, it clearly does. It is absolutely ridiculous to suggest otherwise.

It is likewise with car industry jobs, which was touched on by Senator Bullock. He was trying to blame the coalition for the loss of car industry jobs. But let us go this issue because, again, the Labor Party are claiming and would put this claim out that endless subsidies are okay and that no matter how high the subsidy is for car industry jobs we should pay it. We believe there is a limit to that kind of assistance. There is a cost. The Productivity Commission suggested around $300,000 in subsidies per job. The shop assistants, who Senator Bullock used to represent, are asked—

Senator Bullock: Still do.

Senator SESELJA: Senator Bullock tells me that he still does. The shop assistants who Senator Bullock seeks to represent are being asked, were being asked and would be asked by Labor in perpetuity to be paying out of their wages to subsidise $300,000 per car industry job. Is that the kind of policy we want to see in this country? That is unaffordable and that is the kind of approach that we have seen from the Labor Party in a whole range of areas: all care, no responsibility. It is always popular to hand out money—let's face it. But in the end, you run out of other people's money. That is the fundamental problem.

I have just one final point of rebuttal in relation to unemployment. Senator Bullock and the Labor Party have no credibility when it comes to criticising the coalition on unemployment. When we left office, the unemployment rate was 4.4 per cent. It shot up under Labor, in the very time that Senator Bullock was talking about. They left it at 5.7 per cent. We have inherited that and we are endeavouring to turn that around through a range of policies to improve the economy, to improve productivity and to make it easier for businesses to employ people. Those are the kinds of policies that will see employment grow, not endless subsidies and not endless government spending on all sorts of irresponsible programs, as we have seen from the previous government.

Let us go to the motion and why we have this situation of a reintroduction of indexation for the fuel excise. As Senator Abetz said earlier today, and all of us on this side of the chamber would share this view, we do not want to see taxes go up. I want to see taxes go down. But the reality we face is a serious budgetary problem. If I had my way and if we did not have the inheritance that we have from the Labor Party, I would not just want to see the fuel excise go down; I would want to see income tax go down and I would want to see all kinds of other
taxes go down. Under coalition governments, they do—once we get the finances under control.

That is what we saw under the Howard government and that is what we will see under this government. We are already seeing it with things like the carbon tax—that is, the massive tax reduction with the carbon tax and the mining tax. We have seen significant tax reductions, but in a perfect world I would like to see them all go down. When we get the finances under control, we will again see more and more taxes going down; that is what good governments do over time. Liberal governments fix the mess from their Labor predecessors. Sometimes that does involve increases in taxes. It hurts. We saw that under the Howard government as well, but what we saw overall under the Howard government was a significant decrease in tax whilst delivering large surpluses. We grew the economy, we got the budget under control and then we returned money to the people through tax cuts. That is what a good government should do and that is what I would like to see this government do—and it will.

The final-year budget position that the last coalition government left was a $19.8 billion surplus. The Labor government left us $47 billion deficit. The average budget position under the former coalition government was an $8.1 billion surplus. The average under the Labor government was almost a $40 billion deficit. The government debt in net terms was negative $44.8 billion at the end of the Howard government and it was $191.5 billion at the end of the Rudd-Gillard-Rudd government. Gross government debt was $55 billion at the end of the Howard government and $310 billion at the end of the Rudd-Gillard-Rudd government. Interest on government debt was negative $1 billion at the end of the Howard government and $8.8 billion in net terms under the Labor government. It was $12.4 billion in gross terms. With any measure you want on the economy or on the budget and budgetary management, we see a stark contrast between the coalition and the Labor Party.

We do want to see these taxes go down. Let us deal with a number of the assertions and the claims of those opposite in relation to it. Let us look at the cost of this, because, as I said, I want to see taxes go down wherever possible. We need to make it clear that what we are talking about here is 40c a week for the average family. I would prefer that was not happening, but these are the fiscal realities. That is the truth. It is 40c a week on average. At the same time that we have got rid of the carbon tax, the people can see their electricity prices coming down and a whole range of other costs coming down. The Treasury, under the former government, estimated around $500 per year in savings for the average household. So we need to look at this in relation to all of the government’s policies. We have gotten rid of a massive tax on families and we have kept the compensation. With reindexation, what we are saying is that the real value of the tax will stay the same over time. That does mean a 40c per week hit on the average family.

But that is in contrast to the average $10 per week that families save as a result of getting rid of the carbon tax. Let us not forget that. The Labor Party, who are now arguing against a 40c increase in fuel excise that will go to roads funding, supported and voted to keep an extra $10 hit every week on average families as a result of the carbon tax—a carbon tax that had no positive impact, where what we are talking about when it comes to fuel excise is greater funding for roads. We are talking about better roads for Australians—putting $2.2 billion into roads. That is a stark contrast, isn’t it, as we look at the relative merits. I think every contribution from the Labor Party or the Greens, who voted to keep that carbon tax, should be
seen in that context. They now say they do not want to see a 40c increase per family per week for fuel, which would go into roads funding of $2.2 billion, but they do want to see a $10-per-week hit on families—on their electricity and other costs—as a result of the carbon tax, which, of course, achieved nothing. There is the stark contrast.

The Labor Party talks about the precedent. This is a precedent that they engaged in, in terms of the mechanism. This is a precedent that the Labor Party imposed in the previous government. I would also add this—and perhaps in any of the further contributions from Labor senators they can put on the record what they are going to do, because there will be a couple of opportunities. Will they be voting to get rid of indexation, or to reduce fuel excise? Remember that the Labor Party have not supported any of our savings. Bill Shorten makes the laughable claim that he can get to surplus more quickly than the coalition can. So, he has put it out there whilst rejecting all the savings—rejecting even his own savings—that the Labor Party supported whilst they were in government. The question now is: will they promise to reduce these taxes? I put it to you, Mr Acting Deputy President, that come the next election the Labor Party will not be promising to reduce any taxes, and if they do they will do so with absolutely no credibility. They have not identified any savings and they are committed to all the extra spending, so they are going to start way behind on the task of getting the budget back into surplus. They will have no capacity to credibly offer tax cuts in any area. Be it income tax cuts, be it indirect or be it things like the fuel excise, the Labor Party will have no ability to offer any relief to taxpayers.

Only a responsible government that gets the budget under control, that has had a record of lowering taxes, growing the economy and delivering surplus budgets, will have the credibility to offer anything in the way of tax reductions and tax cuts. If there is one thing we know, it is that, no matter what the revenue is for the Labor Party, they will always spend it, and more. That has been the record in Australia. That is now a fact in Australian politics. As many of us will remember, Labor has not delivered a surplus budget in a generation. They went through the greatest mining boom we have seen in 100 years, the greatest terms of trade we have seen in over 100 years, and they still could not deliver a surplus, notwithstanding that. If you cannot deliver it when you have the best terms of trade ever, then you will never deliver it. I think that if you cannot deliver it for 20 years then the Australian people can safely conclude that the Labor Party is not capable of delivering a surplus, despite having promised that they had already done it. Bill Shorten told us that he had already done it. That was rubbish. It was not true, and the Australian people know it.

As we look at these issues we need to look at all of the facts. We need to look at the facts of what we were left with and what we are trying to fix. We need to look at the fact that, counter to the 40c increase per family per week for fuel, we are talking about an average $10 reduction as a result of our policy to get rid of the carbon tax—something the Labor Party and the Greens opposed. And we need to look at the record of coalition governments in getting budgets back under control and then delivering that dividend back to the community, whether it is through record investment in roads and infrastructure, whether it is through other services or whether it is through tax cuts. That is the record of coalition governments, and that is what we are aspiring to do as we fix the significant debt and deficit disaster that was left to us by our predecessors—the $1 billion a month, headed for $3 billion a month if we do not get it under control. This is what we are dealing with as a nation. This is what serious governments
have to deal with, and those opposite, as they critique our efforts to fix their mess, have absolutely no credibility in doing so.

**Senator SIEWERT** (Western Australia—Australian Greens Whip) (16:42): I rise to contribute to the debate on the Labor Party's motion on fuel excise and the amendments foreshadowed by Senator Lazarus. The Labor Party's motion is 'that the Senate notes the Abbott government's petrol tax ambush and its negative impact on cost pressures facing Australian households and businesses'. Then Senator Lazarus has some amendments to that, and in particular I would like to talk to part 2 of the foreshadowed amendment that talks about how the underhanded act to increase petrol prices will have a negative impact on Australian families, pensioners, low-income earners, single parents, retirees, the sick, the disadvantaged and businesses, including small business owners. That is exactly right. This will have a negative impact on pensioners, single parents, low-income households—in other words, the most vulnerable and disadvantaged in our community.

But of course we need to bear in mind that the impact of this comes on top of the other budget measures that this government wants to impose on the most vulnerable and disadvantaged in our community. Of course, the government does not care, because they do not think the poor and the most disadvantaged actually use cars or consume petrol. Mr Hockey clearly does not understand that. Who can forget his comments that the poorest people either do not have cars or do not drive very far in many cases? But they are opposing what is meant to be, according to the Treasury, a progressive tax. It is simply absurd, as everybody in Australia pointed out at the time. The fact is that the poorest and most disadvantaged in our community will be desperately hit by what essentially amounts to an increase in the cost of living. I will shortly go through some of the terrible poverty figures we are faced with in Australia.

Very often the most disadvantaged and poorest live in communities that are poorly served by public transport, communities where it is hard to access public transport and communities that are some distance if people have to travel to the city. And this tax will not invest in public transport. Mapping done by a Queensland university, called VAMPIRE mapping, looked at peak oil, the scarcity of fuel into the future and who will be affected by the resulting price increases. The maps show, in a visual form, where people are living. When you look at the application of those maps to our cities, you can see how difficult it is for the most disadvantaged and poorest people to access transport if they cannot afford fuel. Either they have to spend more of their very limited income—and they have less disposable income because they are on a low income—or they become more isolated. Often, many of the people who live in these communities are unemployed. That is not always the case—and I am not stereotyping those communities—but that is the unfortunate reality. As they become more isolated it is harder for them to access work, training or education.

Household items and basic expenses like transport costs make up a huge proportion of the budgets of low-income individuals and families. Therefore, if you increase the costs of those basics you are making it even harder for people to survive. I need to put that in perspective in relation to poverty in Australia at the moment. We have just had Anti-Poverty Week in Australia, which highlighted some absolutely appalling statistics. An ACOSS report released in the run-up to Anti-Poverty Week showed that 2.5 million people are living in poverty in Australia. The poverty line ACOSS used, 50 per cent of median income, was $400 per week
for a single adult and $841 per week for a couple with children. It was found that 2,548,496 people—13.9 per cent of the population—were living below the poverty line. There were 602,604 children—17.7 per cent of all children—living below the poverty line. For those on income support, 41.1 per cent of people on social security payments were living below the poverty line, including 55.1 per cent of those Newstart allowance, 50.6 per cent of those on youth allowance—in other words, half the people on youth allowance—and 47.2 per cent of those on parenting payment, the vast majority of whom would be single parents. Those figures do not include the additional single parents who were dumped onto Newstart under the Gillard government's measure to move grandfathered single parents onto Newstart. Further, those living below the poverty line included 48 per cent of people on disability support pension; 24.8 per cent, nearly a quarter of people, on carers payment; and 15.7 per cent of those on the age pension. Of the unemployed, 61.2 per cent of people were living below the poverty line. A third of Australians who were classed as the working poor lived below the poverty line and were from households where the main income was from wages. Overall, from 2010 to 2012 poverty had increased by nearly one per cent, going from 13 per cent to 13.9 per cent.

Some states have higher poverty rates than others. Tasmania has a poverty rate of 15.1 per cent. The rate varied in the regional areas of Tasmania. It was much higher in the regions than it was in Hobart. The poverty rates in other states were as follows: Queensland, 14.8 per cent; New South Wales, 14.6 per cent; Victoria, 13.9 per cent; Western Australia, 12.4 per cent; South Australia, 11.7 per cent; and ACT and the NT, 9.1 per cent.

The groups most at risk were women, children and older people; sole parents; those born overseas; people with disabilities; and Aboriginal and Torres Strait Islanders. ABS data does not include information to accurately measure the poverty rate for Aboriginal and Torres Strait Islanders. However, the 2011 HILDA database showed that 19.3 per cent of Aboriginal and Torres Strait Islander people were living in poverty, compared with 12.4 per cent of the wider population. These are the people who will be most at risk from increasing prices—those people who spend more of their income on basic essentials.

We can look at this measure in the context of other measures that are proposed in the budget. The government did some modelling before the budget, and a couple of weeks ago the income inequality inquiry heard that the government, in doing their figures, used the model that NATSEM developed. Both the government modelling and the NATSEM modelling quite clearly show that the budget will disproportionately hit the most disadvantaged. A much higher percentage of their income will be affected. The government's budget measures, as they knew very well before they brought them in, will most significantly hit the most disadvantaged.

This hit to the bottom line for those on the lowest income, those living in poverty and those most disadvantaged, has to be borne in mind when we are considering this issue. It will layer on top of all those other measures. The most vulnerable includes sole parents, the majority of whom are single mothers. They have been progressively hit by decreases in their income from the Howard government's cuts to single parents and from the Gillard government's changes which dumped them onto Newstart, which had perversive outcomes on their ability to find work, on their ability to maintain a connection with work and on their incomes. It had perversive outcomes for some people because they were on Newstart instead of the parenting
payment single, if they found work their income went down; so there was more incentive not to increase the number of hours that they were working. If you look at the way that cuts in previous budgets and the petrol tax layer on single parents, you start to see that it has a significant impact on people's ability to survive and people's ability to raise their kids.

We need to look at this in the context of the growing inequality in this country. I think I have said in this place before—I certainly have said it in other forums—that there is some dispute around the margins about how much inequality has risen, particularly in view of the global financial crisis. It is agreed that inequality is rising and it has risen over the last three decades. We need to look at what that does to our community. A number of well-researched and articulate papers have been written on this issue. Well-known academics Richard Wilkinson of the London School of Economics and Kate Pickett of the University of York show that issues such as health, violence, lack of community life and mental illness are all likely to occur in societies where the rate of inequality is higher.

As Catholic Health Australia have noted, 65 per cent of those in the lowest income groups report long-term health problems compared with just 15 per cent of our wealthiest groups. In other words, greater inequality will have more of an impact, for example, on our health services. As is so often the case, those already facing challenges are among the first to be affected by bad policymaking, and they feel the effects the hardest.

One of the key conclusions of a report by the International Monetary Fund's research department on the topic of inequality in February this year titled *Redistribution, inequality, and growth* is that:

... lower net inequality is robustly correlated with faster and more durable growth, for a given level of redistribution.

It said:

It would still be a mistake to focus on growth and let inequality take care of itself, not only because inequality may be ethically undesirable but also because the resulting growth may be low and unsustainable.

As they are saying, it is not only ethically undesirable to force the most vulnerable and disadvantaged in our community to live in poverty and increase inequality but also bad for the economy. The government are proposing another policy that adversely impacts on the most vulnerable and on those living in poverty, and they keep saying that they are doing it in the name of economic growth and repairing the budget bottom line, but even the IMF say that increasing inequality reduces productivity. Christine Lagarde has made other very strong statements about the impact of inequality. The government say, 'We are all about economic growth; we are all about improving the economic bottom line,' but their policies, which will inevitably increase inequality, will have a negative impact on productivity and on the economic bottom line. It is a false economy to put in place measures that impact on the most vulnerable and increase inequality, because, as the IMF is now pointing out, it has an impact on productivity. You will not increase the bottom line. The government keep talking about a better future for their grandchildren and their great-grandchildren. You will not achieve that if you continue to increase inequality, which is what these measures will, in the long-term, lead to.
As the St Vincent de Paul Society pointed out:
Inequality does not affect everyone equally: those who suffer the most are more likely to be Indigenous Australians, older and younger Australians, people experiencing illness, refugees, and women.
The St Vincent de Paul Society also noted the discrepancy between Australia's average full-time income of around $1,500 per week and both the full-time minimum wage of $622 per week and the inadequate rate of Newstart at just $249 per week. They suggest that up to 13 per cent of Australians live in a household with an income of under $20,000 per year. If you compare the average full-time income of around $1,500 a week to people trying to struggle on Newstart, what do you think is the proportional impact of increases on the basic costs of living? The most significant impact is on the most vulnerable in our community.
The Greens have four key pillars. One of those key pillars is social justice. We cannot consider policies outside the prism of what impact they have on the most disadvantaged in our community. It is very clear that we have a huge poverty problem in this country. The government keeps putting blinkers on; they think that you can just increase economic and everybody will be lifted up. They float the boats. That is clearly not true. People get left behind: 2.5 million people are getting left behind in this country with the full-steam-ahead government putting in measures that hit the most vulnerable first. In fact, the measures are demonising of the most vulnerable people on income support. It is punishing them instead of taking a supportive, inclusive process, which will only lead to more negative outcomes for our community.
Before I finish, in the next couple of minutes, I do need to address the comments that Senator Seselja made about the impact of the petrol tax and the fact that the Greens and the Labor Party, when they were in government, imposed the carbon tax and that it was not working. Well, that is not true. It was working, and you need to give these things time to make sure that they are. So, for a start, he is wrong. Then he says, 'Oh, there's no compensation and they didn't care about the poorest.' Well, that is not true. There was a compensation package, because people were aware of it. I take great offence that he would suggest that the Greens were not caring about the most vulnerable in the community. I think it would be fair to say that the Greens, and certainly myself, are in here day in and day out talking about the impact of government policies on the most vulnerable in our community, on families, on single parents, on age pensioners and on people on disability support pension. For him to say that we ignored that is completely not true. He knows that very well. He knows that there were things built into the clean energy package that ensured compensation for families and ensured that the most vulnerable were assisted. He knows that it was a comprehensive package.
I am thoroughly sick of the government trying to suggest that it was a pack of nonsense; it simply was not. Senator Seselja knows that. It was a well constructed package that very clearly thought through the impacts on families and on the community, and compensation measures were put in place. A simple Google search, if Senator Seselja had not been paying attention when the debate was happening—because I know he was not in the parliament at that stage—would have shown him that those measures were in place.
The fact is that we have a growing poverty problem in this country, we have a growing inequality problem in this country, and we need measures to be put in place that actually address those systemic problems. Please listen to the IMF, and it is not that often that the
Greens quote the IMF. The IMF said that growing inequality is bad for the economy. Beyond that and very, very importantly, it is bad for the community and it is bad for people. It increases health problem. It increases community issues. As the IMF said, 'It is not ethically desirable.' We need to have policies in place that actually do not impact on the most vulnerable in our community.

**Senator LINES** (Western Australia) (17:02): I rise to speak on Senator Moore's motion regarding the fuel tax. I rise and wonder, and I put the question to the Abbott government: how much more money are they going to take out of the purses and wallets of Australians? How much more money, and when can Australians have some certainty that the robbing of family budgets that is going on currently will stop? I also pose a second question, and that is: do the Abbott government really understand the effects of their harsh and cruel budget? It seems to me that the government are the only people in Australia who continue to support their budget, although we are seeing, by degrees, that they move away from sections of it each week. They obviously have no understanding of its real impact in the Australian community.

Every one of the Abbott government's broken promises has an effect on the household budgets of Australians, especially low-income Australians, Australians who live on benefits and Australians who live on the age pension. Every action from this 'no surprises' government takes us by surprise and it takes its toll. Whether it is the higher education reform package or whether it is this new fuel tax, they have an impact on the budgets of Australian families. What a sneaky move and what a fast move the fuel tax is, because it will take effect in the next pay packet of Australians. So, this week is the last pay packet that most Australians will get before they have to pay additional money at the petrol browser. The fuel tax could come under a number of the Abbott government's glib statements. Is it a broken promise, or is it a 'no new tax', or is it 'we'll be a government of no surprises'? It is probably every one of them, but what really matters is that it adds to the battering of household budgets by the Abbott government.

Remember when Mr Abbott became the Prime Minister—'remember when' is almost becoming a slogan in itself—and he kept saying in those early weeks that he had a mandate for this and he had a mandate for that? He had a mandate for everything, seemingly, according to the Prime Minister. For those who believe that, for those who believe in mandates, the Abbott government certainly had no mandate to hit Australians with a fuel tax, because Mr Abbott repeatedly said, 'There will be no new taxes under my government.' Yet, what he has done is sneakily impose this new fuel tax.

Seemingly, the partners in the coalition, the Nationals, say that they are there as the party of the bush, to stick up for regional and remote Australians. I am not quite sure when the last time was that they fuelled their cars and paid for it out of their pockets, but regional and rural Australians do that weekly. We all know that fuel in the country, fuel in the bush, fuel in remote areas, is incredibly expensive.

Maybe what the Abbott government—and indeed the Nationals—have missed is that there are low-income earners in the bush. Not everybody owns a farm or has access to some sort of tax write-off. There are aged-care workers who live in the bush, there are early childhood educators who live in the bush and there are roadhouse workers who live in the bush—and they earn very meagre wages. They earn $18, $19, $20 or $21 an hour. But the Nationals, who in partnership with the Abbott government have imposed this sneaky deal, seem to have
completely forgotten about those folk. Many of those workers, particularly the ones who work in aged care, work part time—and they drive a significance distance to work each day. Their part-time wage has to stretch across a family budget.

Every time Mr Abbott says this is a small increase—and we have heard several government senators say that in this place today—it shows that he fails to understand that low-income earners, pensioners and others living on benefits do not completely fill their cars. Why is that? It is because even now they cannot afford to do that. They buy the exact amount of petrol they need in order to get to work or to do the family errands.

This morning I had the privilege of attending a meeting of the Parliamentary Friends of Early Childhood with some of my former comrades from United Voice. There were a number of early childhood educators there. Predominantly women, these educators work in a professional capacity but unfortunately do not get paid a professional wage. That is bad enough, but some months ago the Abbott government took money out of their already thin pay packets when they cancelled the Early Years Quality Fund. Early childhood educators earn $20 to $21 an hour.

Many of these women have children of their own and struggle with their mortgages. Believe me: they never have the money to fill up their cars—never, ever. They put enough fuel in their cars to get them to and from work, to pick their kids up and to run them to places. There are no additional funds available for any extras. From 10 November, this increase in the fuel tax will hit those educators, those women I was meeting with this morning, in their pockets. After that, when they next look at that fuel bowser after they get their next pay packet, they are going to have to recalculate their family budget—and something else will drop off it. They do not earn enough right now to live a decent life, they do not earn enough to put their own children into quality care and very few of them—especially if they are single-income earners with children—earn enough to buy a house. But all of that goes completely over the Abbott government's heads, which is particularly noticeable when the Prime Minister keeps standing up and saying, 'This is a small increase.' Every time he says that, he sends a message to ordinary Australians—those struggling on low wages—that he is well out of touch with their family budgets.

I am very surprised that the Nationals, who know the high cost of fuel in the bush, would accept such a deal from the government. But wait, there's more! I seem to recall that earlier in the year the Liberals tricked the Nationals, their own coalition partners. That's right! They let it slip out that they wanted to put a tax on diesel. They knew of course—it was very predictable—that the Nationals would blow up about that. But that just meant that the Liberals could achieve their fallback position—a fuel tax hike—without the Nationals complaining. After all, the Liberals told them, the money had to come from somewhere. The Nationals wiped their brows and said: 'Phew! We dodged a bullet there on diesel' and then they agreed to what the Liberals wanted all along.

All of this shows that they are out of touch with what happens when people fill up their cars in Halls Creek, Kununurra, Esperance or Waroona—all the remote towns in Western Australia. People in those places all know that they pay a significant amount more when they put petrol in their car—not filling it, just putting in enough to get them to work. That completely passes the Nationals by, and then we have the Prime Minister of the country
standing up and saying, 'It is only a small increase.' Keep saying that, Prime Minister Abbott, because every time you do, you remind Australians that you are completely out of touch.

One government member has been brave enough to stand up and call it as it is. Senator Macdonald is on the public record saying that this is a low move, that this is going to hurt low-income earners. He had the courage to tell the truth on this matter. The rest of the government have obviously chosen to put up with it and shut up, but not Senator Macdonald. He has called it as it is—and he is not the only one. Another is the chief executive of the Australian Automobile Association, Andrew McKellar.

Automobile associations are not the radical fringe. You cannot attack them as you do the unions. They are pretty conservative groups. They are pretty polite because they know they rely on governments of whatever political persuasion to be nice to them. But even Mr McKellar has come out and called the petrol move 'weak, sneaky and tricky.' Why did he do that? He did it because the government has avoided any scrutiny of this sneaky move by using the customs tariff. It did that because it does not want to come before this parliament and have to answer questions about why it is imposing this tax hike. It does not want transparency. It does not want the scrutiny of the parliament. It is a government of surprises—quite contrary to Mr Abbott's words when he stood up and said, 'I want to be a government of no surprises.' There are in fact constant surprises with this government. Every day there are more surprises.

Let's not forget where else the Abbott government has attacked working Australians. We had that sudden freeze on superannuation. We heard in this chamber today from government senators that somehow that freeze on superannuation has been good for workers because they will have this additional invisible money in their pockets to spend each week. That just shows the absolute ignorance of the government in not understanding how industrial superannuation is paid. It comes from the employer through to the workers. When the Abbott government puts a freeze on industry superannuation it lets the boss off, so the boss saves money and the workers miss out. Nothing actually goes into their pockets. Freezing retirement incomes is the most ridiculous move I have seen from the government. Why would you do that with an ageing population? Government senators have said today that the money that has been frozen is going to magically go out of the boss's pocket and into the worker's pocket and the worker will have more money. That is a complete myth and just demonstrates total ignorance about how the superannuation system works, just like suggesting that this increase in fuel is not going to cost Australians very much at all. It will and they will not forget who has done this to them.

Let's not forget the threats we have had from Senator Cormann when he said that if Labor did not support this move we would be held responsible for giving money back—that somehow money that had to go back to fuel companies would be our fault. The Abbott government likes to scapegoat Labor almost on a daily basis, and if it is not Labor it is the unions, but it is mostly Labor. Seriously—it is a sneaky decision that the government has taken, a decision that has avoided the scrutiny of the parliament to increase the cost of fuel for everyday Australians, and the government is going to try to say it is all Labor's fault. Who is going to believe that? That is the most ridiculous assertion I have heard in a long while.

Where is this budget emergency that the government talks about? Sixty-three leading Australian economists have said that there is not one. What is the money going to go into? Apparently it is going into roads—not public transport, but roads. How is that moving the
country forward? How is putting more roads in place of assistance to those who rely on public transport? You would think that if the government were going to do this it would look at a better spend for its dollar, but, no, it is so out of touch and it is so opposed to public transport. The government said a few months ago: 'That's a state government responsibility. It's not an area that the federal government gets involved in. So we're going to continue to fund roads.' I can tell you that people in Western Australia do not need more roads; we need more public transport. In Western Australia, we do not even have public transport to the airport. I will tell you what: if you live in a suburb and you want to get to another suburb at the other side of town, it is a two- or three-hour bus trip, if a trip is available at all. We clearly need expenditure on all forms of transport, but seemingly that is not going to eventuate under this government. This is just another sneaky attack on the purses and wallets and the cost of living of every Australian. It is also a sneaky attack on the parliament and a total disregard for the Senate, but that seems to be one of the things that the Abbott government excels in: being sneaky and disregarding parliamentary processes.

This is not just about the fuel tax; it is a demonstration of the lengths to which the Prime Minister and his team will go to undermine the parliament and sneak increases into Australian families' costs. Maybe what the Abbott government are hoping is that, because this has not gone through the parliament and because it has avoided the public scrutiny that the parliament provides, somehow Australians might blame the fuel companies. I am sure the fuel companies have already outsmarted the Abbott government on that and I am sure that they are not going to accept responsibility for this increase.

We know that raising petrol excise taxes is regressive. As The Conversation said: Higher fuel prices will raise the cost of living for consumers on low incomes who are not financially able to upgrade to a fuel-efficient vehicle. Nor are they able to reduce kilometres travelled if they live in an area that has limited access to public transport. Consumers and businesses entitled to claim a tax deduction for higher fuel costs may not be discouraged from buying high emitting vehicles and reducing kilometres travelled.

Many educators, aged-carers, disability service workers and hospitality workers do not live in the hearts of our cities. Why don't they live there? Because the rents are too high. They cannot afford to live there. Most workers that I know live at least an hour’s travel away from their workplace. Added to that, many of them are shift workers. They might start at 5 am or 6 am in the morning. That is often at a time when public transport is not running, so they have little other available option than to take their car, and they will fill it only with enough fuel so that they can do their shifts with a little bit of fuel spare. If you want evidence of that, I would ask you to look to the Fair Work Commission and the submissions that were put forward as part of United Voice's low-pay bargaining application. Submission after submission from aged-care workers tells the story of how difficult and almost impossible it is for them to balance their budgets on their meagre incomes, and now the Abbott government has gone completely behind their backs and the backs of other low-paid workers in this country—pensioners and those on benefits—to hike up the cost of fuel without a single care for those struggling the most in our community. This is a government that is absolutely out of touch. It looks after the elite and the wealthy in our community and shows scant regard for anyone else.

Senator RUSTON (South Australia—Deputy Government Whip in the Senate) (17:22): Before I address my remarks to the private member's motion in relation to the fuel excise, I
cannot help but feel the need to give Senator Lines a lesson in economics 101. The senator has made a heap of comments about people on low-incomes, on welfare payments and the like who are unable to afford this increase in their weekly expenditure, but Senator Lines has failed to realise that there are many payments made to people in Australia that are funded by the government. I think you can supplant the word 'government' with 'other taxpaying members of the Australian public', because we need to remember that governments do not have money of their own; they only have the money of the people of Australia.

In order for us to pay the welfare payments and to have all the things that Senator Lines would like us to have, we must have revenue sources, unless Senator Lines is suggesting that we continue to increase our budget debts and deficits to such an extent that we spend all of the money raised from taxation on paying off the interest on our debt. Whilst Senator Lines can come in here and make these sorts of comments, she has to realise that there are two sides to a ledger. There is the income side and there is the expenditure side. Somewhere down the track, you have to bring it to account. You cannot keep forking it out, without having some sort of revenue base. If Senator Lines spent a little bit more time thinking about where the money comes from to pay for all these things that she would like Australians to have, then we might end up with a more sensible debate than the one we have just had.

There are a couple of other comments in Senator Lines's speech that warrant a comment on the record, of which one was this assertion that our farmers and primary producers were somehow rich people. You, Mr Acting Deputy President Gallacher, coming from a state that relies so heavily on agriculture and primary production as the basis of its economy, would understand that many of our farmers have no income at all. They may have some assets but those assets, at the moment, are so devalued—because of debt, poor commodity prices in a lot of Australia and the high Australian dollar—that these people are well below the poverty line. Some of them earn no money at all, though there are those that are lucky enough to be able to draw on their savings. To make an asinine comment about 'rich' farmers being somehow able to pay for any increase in fuel, whereas people who live in the city—those 'poor' people—will in no way be able to cope is the most outrageous comment I have ever heard.

Finally, before I move onto the substantive matter before us, I will quote Senator Lines. If anybody wants to, they can have a look in Hansard to see that this is exactly what she said:

... people of Western Australia do not need more roads ...

Maybe the people of Western Australia do not want more roads. I would be interested to test that one in the marketplace—and I am sure my colleagues from Western Australia possibly will—but I assure Senator Lines that people across the rest of Australia want more roads. They want more roads, they want better roads and they want safer roads. Maybe we should test the statement that the 'people of Western Australia do not want more roads', because it would come up with some very interesting results.

I turn to Senator Bullock's substantive motion before us in relation to the fuel excise. I am sure I speak on behalf of everybody in this place—whether they be Labor, Greens, crossbenchers, Liberals, Nationals—when I say that we would all like to see increases in spending. We would all like to increase the spending on market access to our primary produce so that we can get better access to markets for our producers in Australia. We would love to see an increase in spending on research and development, innovation and technology—the things that, in the past, we have been world leaders in and things that have made Australia the
great country it is. We would love to be spending more on that. I would love to see an increase in funding to the NBN to accelerate the roll-out of the NBN, particularly to country areas, because there are parts of this country and parts of our home state in South Australia where people do not have any internet connectivity whatsoever. It would be fabulous to spend more money there. I would absolutely love to see the deregulation of the higher education sector without the need for government funding being cut. I do not move away from the fact that we need to deregulate, but wouldn't it great if we could go to a model of deregulation without reducing the amount of funding that is made available to the higher education sector? That would be terrific. We could increase funding for all things that improve public amenity and public good, such as the arts, so that we can enjoy ourselves and have access to wonderful artistic and cultural activities. We would all love to see that.

I would love for us not to be in a position where there is a need to change the indexation situation on fuel. Unfortunately, we do not have any choice, and I go back to my opening comments in relation to economics 101—that is, if you want to spend something, you need to have the funds. We on this side of the House do not believe that you just keep borrowing on the never-never, if you want to have all the things that I just talked about and the myriad other ones that, I am sure, every senator in this place and every member in the other place can come up with. Every lower House member would love lots of things for their electorates. We all want a wonderful country to live in. We have a fabulous country to live in. We have a fabulous country with a wonderful standard of living. But of course we would all like to think that that standard of living would never be challenged. Well, the only way that that standard of living will not be challenged is if we have an economy that is robust and self-sufficient—that is, an economy that is not constantly being burdened by the debt interest that we have to pay on an ever-burgeoning budget debt and deficit.

But back to the substantive motion from Senator Bullock. The government is trying to balance the books. The first thing we have to do is actually get rid of the deficit. Economics 101 actually says that, unless you are actually earning more than you are spending or if you are earning at least as much as you are spending, you will actually be increasing your debt. It is a pretty simple equation. I am sorry that nobody on the other side seems to get it.

The government want to balance those books so that our debt is no longer increasing and then move to a budget surplus so that we can start paying down that debt. But, at the same time, it is extraordinarily important that we also stimulate economic growth because the only way that our tax receipts will increase is by providing an economic environment in which the growth and productivity of our private sector is sufficient to generate that sort of tax income.

The government find it necessary to do this. I will not go on ad nauseam about this but, unfortunately, this situation was not of our doing and for those opposite to sit here and be critical of us for trying to be sensible, rational and good economic managers I really do think is a little bit rich. We inherited an extraordinary situation and now, in the height of audacity, those opposite turn around and give us a hard time for trying to fix it.

But back to roads. With respect to the small increase in the price of fuel—and do not get me wrong, I do not want to see any price rise in fuel—I can let you know, Senator Lines, with respect to your throwaway comment, 'Those opposite wouldn't have any idea as to the last time they paid to fill up their car,’ that, like you, when I fuel up my Commonwealth government-provided car, the Commonwealth pays for it, just as it does when you fuel up
your car, Mr Acting Deputy President. The Commonwealth pays for that; the taxpayers of Australia pay for your fuel, as they do for Senator Lines. But do you know what? When a farmer goes to fill up his fuel tanks—

Senator Payne interjecting—

Senator RUSTON: or her fuel tanks—in my case, as a female farmer, and Senator Payne also has a property—on their farm or we fuel up our vehicles that we use as part of our primary production, do you know what? We pay for that. I do not know that Senator Lines is in much of a position to be throwing over here and suggesting that, somehow, I am going to be immune from the slight increase in the fuel excise. I will be one of the people in this chamber who will probably be most impacted by the increase in the price of fuel because I run a number of tractors and vehicles on the road, and equipment and machinery on my primary-producing property. We do receive a rebate, but we still have to pay for the fuel. So I would just like to draw Senator Lines's attention that she is in no position to be throwing over to this side of the chamber and suggesting that, somehow, we will be immune from the impact of these changes. We will not be immune.

Back to roads. We need to have roads of the 21st century, because roads and transport infrastructure is so tremendously important in this country. Coming from a state where the majority of our economic activity is actually generated in country areas and where we are very reliant on primary production and mining, it is extremely important for us in rural and regional areas, particularly in South Australia, that we have good transport infrastructure, whether that be roads, ports or infrastructure that supports those things. For us to shy away from that, I think, would be irresponsible because, unless you actually make the investment now, you have no hope whatsoever of being able to realise the economic activity into the future.

Over the last number of years we have seen a lack of funding in my state, not just by the previous federal government. Because the government in my home state has neglected road funding to such an extent that it has such a huge backlog of road funding, it is seeking to reduce the speed limits because our roads are no longer safe to drive on at the current speed limits. So we do have to realise that there are things that we have to do—money that we have to spend—in support of promoting growth and economic activity, particularly in our primary areas.

Much has been said about the fact that the change in indexation and its likely impact on the price of fuel is a small amount. I am sure nobody wants to spend one cent more on anything than they have to. But if you look at the broad base of this particular change in our taxation regime you will see that everybody will be paying a little bit. This measure is not about smacking one particular group in our community; it is about ensuring we make everybody lift just a small amount of the burden. In so doing, hopefully, we will be able to see the expenditure that is necessary into the future so that we can have all the wonderful things that Australians have become so used to having.

In speaking on this motion from Senator Bullock—I like Senator Bullock—I am sure everybody else in this place would love not to be sitting here and debating this particular motion. However, the cold, hard reality is that we have been left in an absolutely untenable position because of the budget where we have been forced, because we are sensible and responsible economic managers, into a situation where we are having to undertake changes to
our taxation regime and deal with matters in the budget which are not particularly palatable to the public. But do you know what? At the end of the day, you cannot keep on conning the Australian people by giving them more and more when you are borrowing on the never-never to pay for it. It is regrettable that we even have to be sitting here having this debate today and it is regrettable that we have found ourselves in this situation where we find it necessary to find alternative means for generating revenue to pay off the most outrageous debt and deficit situation that has been inherited from those oppos

I just hope that maybe one day those opposite will sit down, listen and realise that if you do not have the money to pay for it you should not be having it. At the end of the day, if you do not balance your books, you just end up in a nasty situation where it all ends in tears.

Senator LAZARUS (Queensland—Leader of the Palmer United Party in the Senate) (17:37): I move the following amendment to this motion:

Omit all words after "That", substitute:

(1) the Senate notes the Abbott Government has broken another pre-election promise with their petrol tax ambush in by-passing Parliamentary processes to increase the cost of petrol through a ‘tariff proposal’, effectively raising the tax before having Parliamentary approval; and

(2) this underhanded act to increase petrol prices will have a negative impact on Australian families, pensioners, low income earners, single parents, retirees, the sick and disadvantaged, and businesses including small business owners;

(3) the Senate calls on the Abbott Government to reverse this decision and instead proceed to put the proposal to the Senate where it can be properly debated and they will of the people delivered.

Palmer United is firmly opposed to the Abbott government’s underhanded, deceitful and totally unethical actions to increase the cost of petrol through an increase in taxes. The Palmer United Party is opposed to increasing the tax on petrol. The Abbott government has not attempted to introduce the measure into the Senate because they know it would be defeated. So, instead, the Abbott government has found another way to shaft Australians—by increasing taxes on petrol instead of bringing the matter to the Senate for consideration and decision by the will of the people of Australia—the very people who voted the Abbott government in.

The Abbott government has undermined all Australians. The petrol increase will harm families, low-income earners, pensioners, the sick, the disadvantaged, single-parent families, retirees and many, many others. In my home state of Queensland, people are on their knees. Over 75 per cent of the state is in drought. Business is struggling. Unemployment in rural and regional Australia as well as overall unemployment levels are at an all-time high. In Queensland, we already pay high taxes when we fill up at the bowser, and we are also asked to pay a toll on many major roads we travel on. Now the government is going to put more strain on us Queenslanders and, indeed, on all Australians by putting taxes up on petrol.

If all petrol taxes currently being collected were spent on roads, there would be no need for a new tariff or increase on petrol taxes. It is important to note that petrol taxes were introduced to pay for roads—for building new roads and for maintaining the existing roads. In other words, petrol taxes represent a user-pays system. Many would consider this a fair thing. But, as predictable as the sun rising, petrol taxes started to be siphoned off to pay for other things. Hence, road tolls were introduced. The Abbott government cannot keep introducing more taxes and raising existing taxes. No-one can afford increased fuel prices.
The Abbott government must overturn this cruel and underhanded decision, and let the people of Australia voice their views and decisions on this matter. The Abbott government should do the right thing and bring this matter before the Senate for proper consideration. I am calling on the Abbott government to do the right and honest thing: reverse your tax increases on petrol and bring this matter before the Senate.

Senator IAN MACDONALD (Queensland) (17:40): I thought Senator Rice was on the list before me but I am very happy to speak on this subject. As you know, Mr Acting Deputy President Gallacher, and as my colleagues know—I have made it clear to all of them—I am not in favour of the increase in excise. As I say, I have made my views very well known. I call this the Labor Party's tax increase. Why do I do that? Because if it was not for the Labor Party's mismanagement of our economy over a long period of time—the six years that they were in power—we would still be in surplus. Rather than increasing taxes, which, regrettably, this does, we would be cutting income tax, as was a feature of the last Liberal government—the Howard government—when, on a number of occasions, the actual income tax rate payable by ordinary Australians was cut. When you have $60 billion in the bank and when you are running annual surpluses, you are able to do that sort of thing. You are able to cut taxes.

The Labor Party came into government in 2007 with, as I said, $60 billion in the bank and an annual surplus of some $20 billion a year. So it was a pretty good situation when the Labor Party took control. But within six short years there was not one Labor surplus, despite promises we used to get from the Labor Treasurer, Mr Swan—does anyone remember him?—who, each budget year, would promise that there would be a surplus but who never delivered one. There were two Prime Ministers during this period, but neither of them was able to properly manage money. In the Labor Party, neither the Prime Minister nor the Treasurer could manage money. Rather than having $60 billion in credit and surpluses of $20 billion each year, the Labor Party put us in a situation whereby if nothing is done we will end up with a $600 billion deficit. This is what Labor did to us—$600 billion in debt. Work out the interest on that!

Already we are paying $33 million a day in interest to foreign lenders because of the Labor Party's incompetence. I ask: how many roads in Australia could you build with $33 million extra every day? I can tell you, Mr Acting Deputy President, that you would get a four-lane highway between where I live in Ayr in North Queensland and where my office is in Townsville in North Queensland. We could have a four-lane highway there if we had $33 million a day to spend on it. But we do not have that, because that $33 million each and every day that we are paying in interest goes to foreign lenders, not to road constructors in my part of the world.

That is why I call this fuel excise increase the Labor Party's new tax. It is the Labor Party's fuel increase, because I understand that Mr Hockey has to take extreme measures to try and address the debt and deficit left to him by the Labor Party.

Senator Cameron: They are extreme.

Senator IAN MACDONALD: There was an interjection, but I could not quite catch it. It cannot have been terribly important. So that is the situation we are in. I have made my position quite clear, unlike the lobotomised zombies on the other side of the chamber, as my good friend Senator Cameron used to call his own colleagues. Remember the lobotomised zombies. It is not me calling the Labor Party that. It was Senator Cameron calling his
colleagues and you, Mr Acting Deputy President, and your whip there that. I would not have called you a lobotomised zombie. But, in calling you lobotomised zombies, clearly your friend and colleague Senator Cameron did not have any regard for you.

On our side of the chamber we do have debates. We are able to put forward new ideas. If you have a different idea to the leader of the party at the time, you are not automatically expelled from the Liberal Party, as you are in the Labor Party. I understand that is how the Labor Party is. But I can well understand why Senator Cameron referred to opposition senators as lobotomised zombies, because you just sit there and take whatever is given to you by the great financial intellect of people like Mr Wayne Swan, the Treasurer of the Labor regime that never once had a surplus, in spite of consistently promising that there would be one. On our side of parliament we are entitled to have a different view and we are entitled to express that view.

I have said it publicly—and it comes as no surprise to my colleagues—that I think there are better ways of trying to address Labor's debt and deficit, because I do think that fuel increases impact more heavily on those outside the capital cities. These are people that do not have a tram down at the end of the street, that do not have a public bus service in the next block, that do not have suburban trains and whose schools are more than just a couple of kilometres away so parents can readily get their children there. It has an impact on these people, like the people I represent, who have to use their vehicles for everything.

I know of an instance up near Georgetown were a caring mother drives her children 80 kilometres to the school. If she goes home and then to come back and picks up the child in the afternoon, that is 160 kilometres to get the child to school and another 160 kilometres to pick the child up. That is 320 kilometres in a day just to get the child to school. With respect, I am quite sure that few of my colleagues on the other side of the chamber would understand that. This is not a criticism, but it is a fact of life that most of you live in the capital cities, you represent the capital cities and you would find it difficult to believe that there are places in Australia, particularly in the north where I come from, where a parent would drive 320 kilometres each and every day just to get their child to school. In the city, you could walk the couple of blocks or quickly drive to the next suburb to drop the child off. And that is just schooling. Multiply that by going to the doctor, going to hospital, going to sporting events and going to cultural events.

If you want to get to a cultural event in many parts of rural and remote Australia you have got to get on a plane and fly to Brisbane or Sydney or Melbourne—that is, unless you go to Townsville for the Festival of Chamber Music, which is held annually, and which, as I mentioned in another speech in this chamber recently, has inexplicably not been funded by the Australia Council this year. So, yet again, it seems to me, and I do not want to get paranoid about this, that sometimes these rules seem to be made by capital city people for capital city people. In relation to the Festival of Chamber Music, I will be wanting to see how much money went to cultural events in Sydney, Melbourne, Canberra, Adelaide and Brisbane compared to what goes to places like Townsville.


Senator IAN MACDONALD: I am not sure where you go in Hobart with regard to those sort of expenses, Senator Bilyk. I guess it depends who is on the Australia Council and just
what exactly the thoughts of those on the council are. But I certainly want to find out why
they are not funding the Townsville Festival of Chamber Music. But I digress.

Fuel is used more in rural and regional Australia, and that does increase the cost of living.
That is why I am very keen—as I certainly hope my government, in the white paper on
Northern Australia that is due to come out very shortly, will be—to address the issue of the
zone tax rebate

It has not been amended for a number of years, and it needs to be brought up to date. And
why was that introduced, back in the years immediately post the war? It was introduced to try
and in some way compensate for the recognised additional costs that are incurred by people
who live remote from the capital cities. Unfortunately, the high ideals of that initiative, back
in the immediate postwar years, have lessened over the years when there has been no
indexation. If that were to come in, you could say, as I would say, that those additional costs
for using your car all the time are in fact compensated for by an increased zone tax rebate. But
until that happens I will be opposing legislation that taxes unfairly those who live outside the
capital cities.

As I say, I do not blame Mr Hockey for this. I certainly do not blame our government for
this. I blame the Labor Party because, I repeat, when Labor came to power, they had $60
billion in credit, and they had an annual surplus of some $20 billion. It did not take long for
the Labor Party to squander what was in the bank and run up a debt which, if it is not
addressed, will approach some $600 billion that future generations will have to pay. So I
understand the dilemma that Mr Hockey is in, and I do not blame him for it. Had he asked
me—and, regrettably, he did not—I could have perhaps suggested other ways that he might
have been able to gain that money. I regret that it has gone to fuel, but I hope that, perhaps,
with the northern Australia white paper, the government may seriously look at amending the
zone tax allowance rebate to compensate for the cost not just of fuel and the impact of fuel but
on all of the things that make living in areas remote from the capital cities more expensive.

This has been the passion of my life. This is why I came to this federal parliament a long
number of years ago. I thought we had almost got around to doing something about it in 2004,
and we were heading towards that goal of trying to bring some equity and justice to those who
live remote from the capital cities. I was at the time the Minister for Regional Services. We
had got so far. But, after the election in 2001, I was moved to another portfolio, and the
initiatives which we had had at the starting blocks, if I might say, were never consummated to
the extent that I had hoped that they might have been.

We are at that stage again. The Joint Select Committee on Northern Australia has been
working. It has put forward a report. I know that the government is considering a white paper.
The government did promise that it would have that out within 12 months of the election.
Unfortunately, that has not happened yet, but I expect that that will happen in the very near
future. I do not know what is going to be in the white paper, but I am hopeful that a lot of the
submissions that have been made will be addressed. And a lot of those submissions deal with
roads in northern Australia. They deal with water management and storage in northern
Australia. They deal with health and education issues in northern Australia. I again repeat that
education in non-capital-city areas does, of necessity, cost more. Most things that come into
the North are transported from a southern capital, and you do not have to be an economic
genius to work out that that costs more. So I think it is important, in equity and fairness—David?

Senator Bushby interjecting—

Senator IAN MACDONALD: Mr Acting Deputy President, I ask the Senate's forgiveness; I just had to have a short chat to the whip, but the whip has indicated that others are prepared to forgo their position so that I can finish my speech.

Regrettably, Labor's petrol excise increase tax is with us. I am disappointed about that. I am opposed to it. I made it quite clear I would vote against it, had there been a vote. I will vote against it in 12 months time. I will be interested to see what the Labor Party does, in 12 months time—whether they are going to vote against it, when this excise tariff area has to be approved by parliament. It will be fascinating to see, after some of the speeches today, just where those senators who were so passionate about it today actually vote in 12 months time. It is going to be very interesting.

Again; my views are clear, but I do not blame Mr Hockey; as I say, I blame the Australian Labor Party. If they had not been so completely dysfunctional in their financial management, we would be reducing the cost of excise, we would be reducing income tax and we would be reducing company tax, but we cannot do that now because Labor ran up a debt of what would approach $600 billion if it were not arrested.

It is not just Labor that is at fault here. It was the Greens political party that supported Labor all the way in this reckless spending—this spending that took a bank account, if one might put it that way, of some $60 billion, which Labor inherited from the Howard government, from a $60 billion credit to a deficit approaching some $600 billion. Only the Labor Party and the Greens could do that. So, regrettably, I part company with my own party on this particular tax, but I blame the Labor Party. If it were not for the Labor Party, I would not be put in this position. And Labor should be eternally shamed.

The PRESIDENT: Thank you, Senator Macdonald. The time for the debate has expired.

STATEMENT BY THE PRESIDENT

Ruling

The PRESIDENT (18:00): Earlier today, Senator Bernardi asked me about a ruling made in 1950 by President Brown that:

... it is not permissible to quote from newspapers, books or periodicals when asking questions.

and referred me to pages 638 to 639 of Odgers' Australian Senate Practice. That ruling was reaffirmed by later presidents in the late 1960s and early 1970s, with President Cormack justifying it on the basis that:

Questions should be brief so that as many as possible may be asked within the time allotted.

Odgers concludes with the point that:

In practice the chair exercises a discretion and may allow a senator to make a quotation to the extent necessary to make the question clear.

That remains the current practice.

However, I would remind senators that some things have changed since the 1950s. In particular, the asking of questions without notice is now limited by quite short time limits and
so there is less risk of senators artificially extending the asking of questions by padding them out with lengthy quotations. Use of a brief quotation may well assist a senator to ask a question economically within the current short time limit. This is clearly a factor that may influence a chair in exercising discretion to permit brief quotations to the extent necessary to make the question clear.

I remind all senators that standing orders and associated rulings are for the purpose of facilitating the conduct of business and debate and the fair and equitable participation of all senators in the proceedings of the Senate.

**DOCUMENTS**

**Consideration**

The following orders of the day relating to documents were considered:

Australian Charities and Not-for-profits Commission (ACNC)—Report for 2013-14. Motion of Senator Siewert to take note of document called on. On the motion of Senator Bilyk the debate was adjourned till Thursday at general business.


**COMMITTEES**

**Consideration**

The following orders of the day relating to committee reports and government responses were considered:


Foreign Affairs, Defence and Trade—Joint Standing Committee—Review of the Defence annual report 2012-13—Report. Motion of Senator O’Sullivan to take note of report called on. On the motion of Senator Bilyk the debate was adjourned till the next day of sitting.

National Capital and External Territories—Joint Standing Committee—Same country: different world – The future of Norfolk Island—Report. Motion of Senator Bilyk to take note of report agreed to.

Constitutional Recognition of Aboriginal and Torres Strait Islander Peoples—Joint Select Committee—Progress report. Motion of the deputy chair of the committee (Senator Peris) to take note of report agreed to.

Foreign Affairs, Defence and Trade References Committee—Australia’s future activities and responsibilities in the Southern Ocean and Antarctic waters—Report. Motion of the chair of the committee (Senator Gallacher) to take note of report agreed to.

Community Affairs References Committee—Grandparents who take primary responsibility for raising their grandchildren—Report. Motion of the chair of the committee (Senator Siewert) to take note of report agreed to.

Education, Employment and Workplace Relations References Committee—Report—Higher education and skills training to support agriculture and agribusiness in Australia—Government response. Motion of Senator Carr to take note of document called on. On the motion of Senator Fawcett the debate was adjourned till the next day of sitting.

Environment and Communications Legislation Committee—Performance, importance and role of Australia Post in Australian communities and its operations in relation to licensed post offices—Final
report. Motion of the chair of the committee (Senator Ruston) to take note of report called on. On the motion of Senator Fawcett the debate was adjourned till the next day of sitting.


Rural and Regional Affairs and Transport References Committee—Industry structures and systems governing levies on grass-fed cattle—Report. Motion of Senator Back to take note of report agreed to.

Northern Australia—Joint Select Committee—Pivot north: Inquiry into the development of northern Australia—Final report. Motion of Senator Macdonald to take note of report agreed to.

Economics References Committee—Future of Australia's naval shipbuilding industry: Tender process for the navy's new supply ships (part 1)—Report. Motion of the chair of the committee (Senator Dastyari) to take note of report called on. Debate adjourned till the next day of sitting, Senator Fawcett in continuation.

National Broadband Network—Select Committee—Interim report—Government response. Motion of Senator Ludlam to take note of document called on. Debate adjourned till the next day of sitting, Senator Bilyk in continuation.

Community Affairs References Committee—Out-of-pocket costs in Australian healthcare—Interim and final reports. Motion of Senator Di Natale to take note of report called on. Debate adjourned till the next day of sitting, Senator Bilyk in continuation.

School Funding—Select Committee—Equity and excellence in Australian schools—Report. Motion of the chair of the committee (Senator Collins) to take note of report debated. Debate adjourned till the next day of sitting, Senator Bilyk in continuation.

Education and Employment References Committee—Technical and further education system in Australia—Report. Motion of Senator Bilyk to take note of report agreed to.

Education and Employment References Committee—Government's approach to re-establishing the Australian Building and Construction Commission—Report. Motion of the chair of the committee (Senator Lines) to take note of report called on. Debate adjourned till the next day of sitting, Senator Bilyk in continuation.

Orders of the day Nos 1 and 3 relating to committee reports and government responses were called on but no motion was moved.

**BILLS**

**Carbon Farming Initiative Amendment Bill 2014**

Second Reading

Debate resumed on the motion:

That this bill be now read a second time.

**Senator IAN MACDONALD** (Queensland) (18:05): I am not sure that I was on the speakers' list, but I am always happy to debate any particular motion before the Senate. The Carbon Farming Initiative is another initiative of the Abbott government. I have quite a bit to say on this, but if there was someone who was listed to speak and who wants to take over, I will happily give up some of my time for that person to continue. But this particular piece of legislation has come to this parliament through a fairly torturous set of circumstances, I might
say. It really all started with a promise made before the 2010 election by the then Prime Minister, Ms Gillard, and that promise was:

There will be no carbon tax under the government I lead.

Mr President, as you and I—and indeed, everyone in this chamber—know, a lot of people voted for Ms Gillard and her party in 2010 on the basis that the Labor Party, if elected, would not introduce a carbon tax. We know that, not long after the Labor Party was—by a strange series of circumstances—re-elected as the government of Australia, no sooner did that happen, the government of Ms Gillard did what it said it would not do, and that is to introduce a carbon tax. That then set in train a series of events and legislation and different things that happened that you could say almost culminate with the bill before us today. Over a long period of time the coalition said to the Australian people, 'We know this carbon tax is a bad tax. We know it is bad policy. Not only does it not collect any money, but it doesn't do anything about the environment.' And most Australians could understand that—you did not need to be an economic genius to work that out. Our side of politics had promised that we would abolish the carbon tax if we were successful at the 2013 election.

But we do acknowledge that the world should try to reduce carbon emissions for its particulate consequence, as well as every other consequence. So, at the election, we promised not only would we abolish the carbon tax but we would also introduce a Direct Action policy which would do more for the world's carbon emissions than any of Labor's carbon taxes ever would. But the Direct Action policy will not cost Australian jobs; it will not send Australian manufacturing overseas; it will not export Australian jobs. The initiative that we are debating today is part of the suite of measures that involves Direct Action and is part of that whole process. It is a policy which clearly I support, and which I would certainly hope that all senators would support, as well.

I have a lot more that I could say on this. If I might say so myself, I am well versed on the Carbon Farming Initiative and the amendment bill. But I see that Senator Singh, who is listed to speak and to lead the debate, is here in the chamber. So, in deference to her and to the good order and management of this debate and recognising that there is a limited amount of time to debate these issues today, I will cut my speech short and defer to Senator Singh.

Senator SINGH (Tasmania) (18:11): I rise in opposition to this Carbon Farming Initiative Amendment Bill 2014, but before addressing the amendments that are contained within it, I am making it crystal clear that Labor is extremely supportive of the Carbon Farming Initiative. We have strongly supported it since we set it up as a means of enabling the land sector to engage in carbon abatement activities. It allows farmers to diversify their practices by using soil carbon sequestration to abate carbon and to sell that abatement to the government. It has offered an alternative revenue system for drought-affected farmers. This bill amends Labor's Carbon Farming Initiative to use the CFI's structure of crediting and purchasing carbon emissions for other industries under the government's Emissions Reduction Fund.

I urge the current participants in the Carbon Farming Initiative to contact the minister immediately and get his guarantee that their projects will be funded out of the $2.55 billion that is apparently available in abatement funds. Do not be satisfied with the minister's promise, because we all know the government's attitude to its promises these days. Imagine being the Minister for the Environment whose only thanks comes from those he is paying to
pollute the environment. It is not even ironic; it is sad. We have all noticed the minister describing his limp little deal as a tremendous outcome of the government. He never says, 'This is a big win for the environment,' or 'What great news for the country!' and we know exactly why—because Direct Action is a program built on begging big polluters not to pollute. It addresses the problem of climate change with all the sincerity you would expect of someone who once declared that climate change was 'crap'.

In 2007, I was impressed by Senator Brandis's proud description of the Howard government's emissions trading scheme as:

…the most comprehensive scheme in the world. …This world-leading scheme will cover 70 to 75 per cent of total emissions or almost 100 per cent of industrial energy and mining emissions.

I accepted the now Treasurer's comments in 2009 that:

Our very strong view is, we were the initiators of an emissions trading scheme, and we believe in a market-based approach.

I remember how offended the now Leader of the House sounded when, in 2009, he said:

The idea that somehow the Liberal Party is opposed to an emissions trading scheme is quite frankly ludicrous.

And I agreed with Malcolm Turnbull when he referred to the coalition's direct action policy as 'a con, an environmental fig leaf to cover a determination to do nothing'. But today, reflecting on the government's dreadful budget, with numerous broken promises, I agree with Malcolm Turnbull now more than ever that the coalition is open to the charge that it is without integrity.

Direct action is a pointless policy with no discipline on pollution whatsoever. The Treasury's advice to the coalition in the aftermath of 2010 was clear. A market mechanism can achieve the necessary abatement at a cost per tonne of emissions that is far lower than alternative direct action policies. We know when it comes to climate change that the position the government takes is very much ideological. Direct action is not a policy based on science, economics or evidence, and it saddles our nation and our children with a climate debt burden that is unsustainable. To paraphrase the Prime Minister, every year we are still polluting is a year we are running up a very heavy bill for our children and grandchildren to meet.

This morning on the radio the environment minister pushed back direct action's so-called safeguards mechanism to mid-2016. So all they would offer Australia now and for the next two years is a slush fund of a tawdry tuxedo that will chuck taxpayers' dollars at big polluters, begging them to maybe start reducing their pollution. Make no mistake: as the Leader of the Opposition has said, this destructive policy will cost Australia dearly into the future. It will cost our country more and it will achieve less—just like the minister's review of an emissions trading scheme with which he bought off the member for Fairfax. The best justification we have heard for this review is that, 'There's no harm in having a review.' On such a pathetic foundation this government's policy is built and taxpayers' money is wasted.

There are three elements to the ERF: credit emissions reductions, purchasing emissions reductions and safeguarding emissions reductions. The government does not intend to introduce the safeguarding element—the most important part of the ERF for some time. This is the only element that is actually designed to monitor carbon dioxide pollution from big business, but it is in the too-hard basket. Yet once they manage to get the safeguards in place
they will not use them. The minister does not expect they will be necessary, begging the
obvious question: why impose such unnecessary red tape? They have replaced Australia's
cost-effective policy with the most expensive, ineffective climate policy they could ever
device. In fact, the Prime Minister's Direct Action Plan will have a net cost in the end to the
taxpayer. You would almost think they wanted it to fail.

A recent Senate inquiry into direct action did not hear any evidence that suggested direct
action will achieve its goal of a five per cent reduction to Australia's emissions by 2020. The
Senate committee recommended that the government not proceed with the emissions
reduction fund, as it is fundamentally flawed on the following grounds: there is no legislated
limit or 'cap' on Australia's emissions in line with emissions reductions targets, there is
insufficient funding to be able to secure enough abatement to meet Australia's emissions
targets now and into the future, and there is a lack of a robust safeguard mechanism with
stringent baselines and penalties for exceeding baselines. But the minister blithely keeps
saying that he believes and expects that direct action will reduce Australia's emissions by the
vanishingly timid margin of five per cent. He says this, though, with absolutely no evidence.
His department has done no modelling, but he believes, he has expectations, that it is all going
to be okay. Of course, it does not matter what the minister believes, expects, hopes or guesses,
because reducing emissions is very much a secondary goal of the coalition's policy. If they
wanted to reduce emissions they would pursue a policy that works—not a program for
boondoggles. It is not me saying this; it is almost everyone who knows better than this.

I refer to a report in the *Sydney Morning Herald* on 28 October 2013 where 35 prominent
university and business economists were polled. Only two believed direct action was the
better way to limit Australia's greenhouse gas emissions. Thirty, or 86 per cent, favoured the
then existing carbon price scheme. But, because those expert economists and expert scientists
are not big business grandees and are not climate change sceptics like Maurice Newman and
Dick Warburton, the government has been ignoring these experts in favour of advice that is
more 'business friendly'. Professor Ross Garnaut, who literally wrote the book on climate
change policy in Australia, dismissed the Prime Minister's promise to limit the cost of direct
action by capping funding. Professor Garnaut dismisses the Prime Minister's promise not
because the Prime Minister tends to break promises for fun but because the cost of emissions
reduction will blow out into the future and if—and that is a big 'if'—the government wants to
keep up with the international standards that will emerge from the 2015 United Nations
Climate Change Conference in Paris. The objective of that conference is to achieve a binding
and universal agreement on climate from all the nations of the world, despite the Abbott
government's inevitable cobra strikes at global climate science consensus.

The Prime Minister has capped the fund at $2.55 billion and not one cent more. But to
reach our five per cent target, direct action will actually have to spend $4 billion to $5 billion
of taxpayers' money every single year on paying polluters to start to reduce their carbon
pollution, rather than having an emissions trading scheme that actually makes the polluters
pay. So already their policy is underfunded.

Where is the government going to find this $5 billion every year? It isn't. How could it? It
is not even going to look for it. That budget hit is just to meet our present commitments. The
logic baffles. The hypocrisy staggers. A conservative government that wants a price signal to
discourage sick people from going to the doctor rejects a price signal to discourage polluters
from polluting. This is the noxious hypocrisy of a government that refuses more-ambitious emissions reductions unless the big polluters, like China and India, take action to control their emissions yet ramps up its coal exports to those countries because it is concerned about electricity poverty. In fact, Direct Action rejects action. It is a licence for big polluters to carry on polluting. We know how excited the Prime Minister gets about exporting coal. So by his definition the more coal we export to China and India the less likely we are to implement effective climate change measures.

_Senator Cormann interjecting—_

**The PRESIDENT:** Order, on my right!

_Senator SINGH:_ There is not one serious commentator who agrees that the government's direct action policy will achieve the bipartisan minimum target to reduce carbon pollution by five per cent by 2020. In fact, a recent report about this from RepuTex, an expert modelling firm, reported that the direct action policy would fall about 70 per cent short of the five per cent target. Of course, we all know this, no-one more clearly than the Minister for the Environment, Greg Hunt, himself, who spent 19 years of his life and most of his political purpose arguing that a price on carbon was the best way of reducing carbon pollution. Yet this government will carry on spruiking direct action, action rejected by economists and scorned by climate scientists, and will stumble in shame to the Paris climate conference next year wearing only its fig leaf to camouflage its actual purpose as a wrecking ball to global climate change consensus.

Where does that leave Australia's reputation in its wake? They have already started their cobra strike and the world has already noticed. Australia has fallen sharply this year in international green economy rankings, coming last out of 60 countries for performance on political leadership on climate change and 37th overall. According to the 2014 Global Green Economy Index, since the change of government our performance lags behind developing nations such as Kenya, Zambia, Ethiopia and Rwanda. In the 2012 index Australia came second out of the 27 countries for political leadership and 10th overall for its growing economic performance. Look how far we have dropped under this Abbott government. So much for leadership and so much for courage. This legislation will see billions of taxpayers' dollars wasted. The Emissions Reduction Fund is a feeble and redundant slush fund. Its failure will be this environment minister's legacy to Australia, the sum total of his political career, and, let us not forget, it is in complete contradiction to his PhD. Labor's position is clear. Labor supports a floating price, an emissions trading scheme with a firm legal cap on carbon pollution, and then letting business work out the cheapest and most effective way to operate below that. We do not support this amendment to the CFI framework, because it will facilitate an embarrassing and inferior way of dealing with climate change.

In conclusion, Labor have strongly supported the carbon farming initiative ever since we set it up as a means of enabling the land sector to engage in carbon abatement activities. We still stand by the carbon farming initiative as it was originally set up. However, this bill, as it amends Labor's carbon farming initiative to use the CFI structure of crediting and purchasing carbon emissions for other industries under the government's Emissions Reduction Fund, will not have the support of the opposition. I urge all of those current participants in the CFI to contact the minister immediately to get an assurance from him that their projects will be
funded out of this $2.55 billion of taxpayers' money that is apparently available for the abatement funds of the ERF. With that, Labor will not be supporting this bill. I move:

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

(a) that since the election of the Abbott Government in 2013, Australia's international reputation on climate change action has been profoundly damaged by Australia becoming the first nation to move backwards on climate change while the rest of the world, including China and the US, is moving forward;

(b) the need for the Abbott Government to establish an Emissions Trading Scheme to place a cap on carbon pollution and drive a clean energy future for Australia, instead of their current policy of an Emissions Reductions Fund paid for by taxpayers rather than big polluters;

(c) the need to fully examine the range of changes proposed to the Carbon Farming Initiative (CFI) and the impact this will have on the existing land sector projects; and

(d) the lack of robust and defensible assurance from the Government about the ability of the CFI amendment and the Emissions Reduction Fund to achieve Australia's emissions reduction target.

Senator MILNE (Tasmania—Leader of the Australian Greens) (18:29): The fact of the matter is that the world is facing a climate emergency. We are on track for at least four degrees of warming. We are already seeing tipping points being exceeded. We are seeing it with the Antarctic icesheets, for example, where disintegration is occurring and it is now a matter of when, not if. Whether it is decades or longer—hundreds of years—the fact is that it is irreversible. We have seen the record Arctic ice melt. And now the latest science is showing that the wind systems around the Arctic have changed, which will lead to really extreme winters in Europe. We are going to see more excessive flooding in the UK, for example. Here in Australia, we are going to see more extreme weather events. We are going to see the heatwaves that lead to catastrophic circumstances for many people, with death rates going up. We are also going to see more extreme bushfire days.

We are not prepared for this. That is why, under the last period of government, the Greens worked with the Labor Party to deliver a clean energy package to bring down Australia's emissions. The reason we implemented an emissions trading scheme was that a market mechanism is the cheapest way to bring down emissions, and it can be scaled up. The reality is that Labor and the Greens could not agree on what the cap should be—that is, how fast and how deeply Australia should bring down its emissions. That is why we set up the Climate Change Authority, based on the similar authority in the United Kingdom. We said, 'Let's set up a professional body which will look at the science, at what is happening around the world and at what Australia's appropriate carbon budget should be.' We said that it would report in early 2014 and then the parliament would move to implement that as a flexible price, with the cap. The cap that the Climate Change Authority recommended was 40 to 60 per cent by 2030, with at least 19 per cent to be implemented now. The default was actually 19 per cent.

Yet this government, together with the Palmer United Party, decided to abolish the existing emissions trading scheme, which was working to bring down emissions, particularly in the electricity sector. That is the area where we desperately need to drive change, to get out of coal fired generation and into renewable energy as quickly as possible. The Greens are committed to 100 per cent renewable energy as soon as possible. That is why we celebrate the fact that the renewable energy target and the programs we had implemented were bringing down emissions and rolling out jobs and projects across Australia. It was and is something to
celebrate and it is why we will not compromise to bring down the renewable energy target to facilitate coal.

Not only did we have an emissions trading scheme, a renewable energy target and the Climate Change Authority; we also had the Clean Energy Finance Corporation and the Australian Renewable Energy Agency, ARENA. The Clean Energy Finance Corporation is again driving a mega rollout of jobs. I would be most appreciative if either the Palmer United Party or the government could tell us what the deal has meant for the Clean Energy Finance Corporation and ARENA. According to the papers today, the deal actually makes it worse for them. Far from saving them, according to today's papers, the deal is that you will put off bringing in the abolition bills until December this year, therefore implying that the Palmer United Party and the government are happy for those abolition bills to come back here early next year. How is that saving the Clean Energy Finance Corporation? You have just put a huge pall of uncertainty over both those organisations after, again, the government and the Palmer United Party got together to take $717 million out of ARENA over the forward estimates. You have taken away the ability to fund new projects. There is an attack on every good thing that was achieved in bringing down emissions and rolling out jobs, especially investment in rural and regional Australia.

I now come to the Carbon Farming Initiative. We set that up with the Biodiversity Fund, and why? The rural sector has been saying to us for years, 'If you want us to help preserve biodiversity, to deal with feral animals, to do the right thing and to steward the land as we would like to, you need to help us financially.' That is why we set up both the Carbon Farming Initiative and the Biodiversity Fund. I condemn the fact that the Rudd government destroyed and abolished the Biodiversity Fund. That was disgraceful. It was part of the agreement and they abolished it. The Carbon Farming Initiative was a way of giving farmers an income for making certain that they invest in projects which bring down emissions or secure carbon in the landscape, and it is essential that we do that. Now we are seeing an attack on that as well.

We have a hideously expensive, ineffective Direct Action Plan, which the Leader of the Palmer United Party had described as 'an ineffective policy and a waste of money at a time when families, pensioners, young Australians, stay-at-home mums, single parents and our Indigenous communities are facing unfair measures in the budget'. That was after the Leader of the Palmer United Party also said that he would not pass Direct Action unless the government accepted his emissions trading scheme.

Let me put to bed any idea that anything like the emissions trading scheme which he proposed was actually one, when in fact you are having an emissions trading scheme when you are not actually having one. It was zero cap and zero price and it was not to come into effect until all the trading partners had an emissions trading scheme and we had a global emissions trading scheme—that is, never. Just to add to that, India was added to it just to make sure that it would never happen. It was a sham and a shonk from the start, and everybody could see that. But, nevertheless, it was the price that he wanted the government to pay to accept the deal. And what a pathetic situation we now have where, far from accepting the emissions trading scheme, the Climate Change Authority is having an investigation over the next 18 months, which the government says it will take no notice of. That is where Clive Palmer's deal ended up.
Why would the Palmer United Party accept such a rubbish outcome, knowing full well that it is a waste of money? This is one thing I mentioned this week in relation to the late Gough Whitlam. He always said that when you don't know where somebody is coming from, just back self-interest, because it is always trying. That is absolutely the case here when it comes to this policy, because we have seen the government and the Palmer United Party tear down a scheme which required the polluter to pay—and that includes Mr Palmer's own companies which had to pay the carbon price, and it was a multibillion-dollar bill for the Palmer United Party leader.

Now the reverse is occurring. Not only did he tear down that the polluter pays but he is now putting in place that the polluter gets paid via the taxpayer. What a perfect outcome. The big polluters can now put up their hand for taxpayers' dollars in order to be paid to do something that they should have been doing anyway and probably would have been doing anyway, with no requirement on additionality that makes any sense. They are going to hang back and wait to be paid.

Economist Frank Jotzo at the Australian National University Centre for Climate Change Economics and Policy said:
The proposed Emissions Reductions Fund under the Direct Action Plan amounts to a scheme of project-based subsidies, funded by taxpayers. The Emissions Reductions Fund approach could be useful to support particular emissions reductions activities, insofar as the budgetary costs can be justified. But it is not a suitable instrument for long-term, broad-based climate change mitigation action. The effectiveness and cost-effectiveness of an Emissions Reduction Fund will be limited by fiscal costs and fiscal constraints, by private incentives to overstate emissions savings and to hold back investment unless subsidised, by the relatively short proposed time horizons for payments, by the instrument being confined to specific eligible activities, and by the relatively large administrative burden. It could also encourage continued lobbying by potential beneficiaries …

Of course it will.

We have a scheme that cannot be scaled up to meet the kind of emission reduction that is required. Let's say it is 60 per cent by 2030, which is where Australia should be aiming. This will not even deliver five per cent by 2020. I asked the minister today: where is your modelling? Have you done any to suggest that the Direct Action deal is going to give us anywhere near five per cent? RepuTex has said it will give you 20 to 30 per cent of the five per cent. Sinclair Knight has said it will not do it; it cannot do it—the money is not enough to go anywhere near it. Also, when you look at the budgetary allocation, yes, it is $2.5 billion, but what has been allocated over the forwards is $1.15 billion out until 2017-18. This is not going to do anything to bring down emissions.

Not only is the government talking through its hat when it says, 'Oh yes, it will.' There is no evidence, no modelling base, not one single economist, not one single scientist—you cannot stand up with any legitimacy and suggest this is going to be something other than just handouts to the big polluters. Just like John Howard, the former Prime Minister's scheme, the Greenhouse Gas Abatement Scheme, was judged to be a complete waste of money, so too will this be. Malcolm Turnbull was right when he said that it was fiscal irresponsibility on a grand scale. He also described it as the big polluters getting their sticky fingers into taxpayers' pockets, and that is precisely what it is going to do.
I want to go to the safeguards, because this is the fig leaf that is being proposed: at some point in the future—we are pushing it out to 2016; we will bring in some kind of safeguards measure. But the Prime Minister has been hoisted with his own petard. He said, 'Axe the tax', 'No tax', 'Cannot have a carbon tax'. For a credit scheme to work, you have to have realistic baselines; when the big polluters exceed them, they pay. That is a tax. We know that the government has no intention of having any rigour around baselines at all.

I want to come to native forests. This is devastating for campaigners around Australia. We had a prohibition under the carbon farming initiative from being able to get a carbon farming project registered, if it involved the harvesting or clearing of a native forest or the use of materials obtained as a result of clearing or harvesting a native forest—prohibited.

Now, because the native forest logging industry is on its knees—they cannot get any money for their woodchips—they have been lobbying hard to be able to keep on logging; get paid to log to feed native forests into forest furnaces to sell energy. That is going to be the fate of Tasmania's forests, Victoria's forests, Western Australia's forests—right around the country. They are lining up a deal that you will get paid by the taxpayer to knock down native forests and feed them into forest furnaces.

That is the deal that Clive Palmer and Tony Abbott, the Prime Minister, have actually lined up. It is disgraceful. I am going to be moving an amendment on that during the committee stage. I would hope that if people do not want to see native forests knocked down and fed into forest furnaces they will support that amendment.

Finally, there are several other amendments I intend to put through. There has been a disassociation with NRM plans, for example, which is important to stop the abuse of water and the use of another round of MIS schemes, which is entirely possible under this. And of course there is ridiculous ministerial discretion being provided here in relation to the Carbon Farming Initiative.

I am also going to be moving a second reading amendment. I will be asking that the Senate note that, if we continue without change, Australia will use its entire 2050 emissions budget within 16 years and the world will warm by at least four degrees by 2100, destroying Australia's Great Barrier Reef, destroying agricultural industries and creating massive vulnerabilities in public health and national security. Secondly, I will ask the Senate to note that it is of the opinion that there is no time to waste on an ineffective, expensive direct action policy that allows unlimited pollution, hurts our global competitiveness and gives taxpayers' money to the biggest polluters with no guarantee of emissions reduction. That is precisely why we should be voting against Direct Action. It is a sham of a policy.

I will put this in the global context of where we are now and where the world is starting to move to, which is recognising that we have to address global warming. We have just had the United Nations summit in New York where Secretary-General Ban Ki-moon invited countries to put more ambitious targets on the table. Not only did our Prime Minister not go but our foreign minister put our lousy target of five per cent by 2020 on the table. The room was virtually empty. Australia was humiliated.

We have the G20 coming up. The G20 leaders are going to arrive in Australia just as this parliament will have ramed through the shonkiest deal ever, a hideous waste of taxpayers' money, with no cap whatsoever on the big polluters, which are all lined up with their hands
out to get paid taxpayers' dollars for whatever they can scheme and scam the system for. The G20 is going to be meeting just as this news starts to permeate, especially ahead of the news about logging native forests for forest furnaces. Then we will go into the Lima talks and head towards Paris next year.

It is a complete joke for the government or the Palmer United Party to argue this is some sort of basis for heading towards Paris. It is nothing of the kind. Australia has to put its post-2020 target on the table in the first half of next year. In fact, it has been invited to do so by the end of March, but no doubt as laggards we will not. There is no process from this government to talk about what our post-2020 target should be. The European Union has just put 40 per cent on the table. That is a target of a 40 per cent emission reduction by 2030. That is their opening bid. They know they will have to go up from there—not down, but up. What is Australia's bid? Nothing. There is nothing on the table post 2020, and this policy will not guarantee it.

We now have a need to take real action on climate change, stop wasting taxpayers' money and stop rewarding the big polluters, the big donors in the fossil fuel area, who are now laughing their heads off as they got massive windfall gains and now want more out of the taxpayer. We need genuine action on global warming. That is why the Greens stand here today saying that this is exactly what we will continue to campaign for—to keep the renewable energy target at 41,000 gigawatt hours out to 2020 and go for 100 per cent as fast as we can get there to shut down some coal fired generators and actually get this country moving.

Senator LINES (Western Australia) (18:48): Watch out Australia as the Abbott government's wrecking ball hits us once again. This time it will hit our environment. It will hit our children's and grandchildren's future. The wrecking ball has already been through our economy and our social security systems and now it is the environment's turn with this pathetic deal the Abbott government did behind closed doors yesterday with the Palmer United Party. Or perhaps it was done a couple of weeks ago when they had the two-day meeting up in Brisbane with Senator Cormann, as the media would have us believe. The best the voters of Australia will get to understand this bill is a handful of speakers who oppose the bill in this Senate tonight. There is no transparency and no openness, just a sneaky deal with the Palmer United Party as the Abbott government wrecking ball now hits our environment.

Just yesterday we saw the Abbott government make this dirty deal with Clive Palmer and the Palmer United Party. Senators in this place do not know what deal was struck. Certainly the Labor Party does not know what deal was struck. But I do know that deals are never one sided, because that is why you make a deal—to benefit both parties. We have no idea what the benefit is to the Palmer United Party. We can speculate, but we have no evidence before us because the deal was done in secret.

I say once again that it will not be a one-sided deal. I think the only reason the government is saying that it is a good deal is because it means it can tick something off the very short list of commitments it gave to the Australian people before the election. It is only a good deal in that regard—that it meets an election promise. It is one of few. You could count them on one hand. Make no mistake—the Labor Party knows and I know that this is not a good deal for our environment. It is not a good deal for my children and it is not a good deal for my
grandchildren and future generations of Australians. It is the most shocking deal you could deal out to our environment.

The Palmer United Party has traded $2.55 billion of taxpayers' money for a report that could have been done by a high school student with access to the internet. It has done this deal in secret with the government and that deal is not transparent or open and it will cost—and has cost—the Australian taxpayers $2.55 billion. We hear in this place every day from this government about how it has to be fiscally responsible, and yet it has done this secret deal with the Palmer United Party that we are signed up to without our consent, that we know nothing about and that impacts generation after generation of future Australians. I say: it is a shame and a disgrace. The Abbott government is showing itself to be a government of big surprises—of constant surprises—and now a government that does these dirty deals with anyone that will take it up.

There will be no public scrutiny of this bill—none—other than the handful of speakers on this side of the parliament who will vehemently, loudly and continually protest this bill. There will not be a public inquiry, as there would normally be through Senate processes. There will be no opportunity for a Senate committee to call before it experts who have a different view than the government's political will; or environment groups who will have a different view to the government's political will; or farming groups—who the Abbott government keeps trying to tell us they represent—will have a different view; or business groups who have a different political view to the government. They will not be invited to have scrutiny over this bill, because no-one other than Mr Clive Palmer has been given scrutiny.

I, for one, know that that is not nearly enough scrutiny of something that is going to cost Australian taxpayers $2.55 billion and will impact on the lives of future generations of Australians—a secret deal done behind closed doors. The Palmer United Party, Labor believes, has been dealt a pup. Mr Abbott and certainly the environment minister, Mr Hunt, today have ruled out ever introducing an emissions trading scheme. I heard Minister Hunt this morning say in the media that he will never introduce an emissions trading scheme. And so what is that deal that Mr Clive Palmer has not only made on behalf of himself and the Palmer United Party but for all Australians who will not be given an opportunity to see true scrutiny of this bill. I remember when Mr Palmer stood next to Al Gore, promising an emissions trading scheme, but obviously that was a stunt. I might point out that Mr Palmer at that time went on and on about his wish, his desire, to introduce an emissions trading scheme. In fact he wanted to reintroduce the emissions trading scheme which Labor had but which he and the Abbott government trashed in this place. This is someone who now holds in his hand the future of our environment and future generations of Australians. That is clearly not good enough. It is not good enough that the Senate not to have proper oversight of this bill and not to be given time to scrutinise this bill. There is no need to be rushing this bill through the parliament—no need at all. Certainly, a responsible government—an adult government, which the Abbott government clearly is not—should be open and say, 'This is a significant expenditure of taxpayers' money and we will be open to scrutiny.' But they are not saying any of that. They have done their deal behind closed doors, and so be it. Perhaps over the next couple of months as the policy is rolled out, we will start to see all of the elements in that deal.
That dirty deal has been cooked up by Minister Hunt, Mr Palmer and senators in this place who will support that bill. It is hopelessly flawed. Direct Action will still pay billions in taxpayers' dollars to big business to reduce their pollution, rather than making the polluters pay. I am sure you will hear in this place tonight speaker after speaker who is opposed to this bill make that point. That point cannot be argued—it is the truth and it is what this policy does. Mr Abbott's promise to include safeguards that prevent any reductions in carbon pollution being offset by increases in carbon pollution elsewhere in the economy has been exposed as nothing more than a mirage. What we end up with is a situation where Mr Abbott will hand billions of dollars of taxpayers' money to some polluters, while others will be free to increase their pollution levels with impunity. We will have a scattergun effect across the country. There will be no thought-out policy and no clever strategy—just giving away taxpayers money with gay abandon. That is what this deal is ultimately about.

As Labor has said over and over, since the inception of the direct action policy we have not had any experts come out and support the policy. Expert after expert has agreed that Direct Action has no chance of achieving meaningful reductions in Australia's carbon pollution levels. That is because we do not have a government in power right now that is genuinely committed to reducing our carbon footprint. We have had minister after minister in the Abbott government stand up and say they do not believe in climate change. What we have in the Abbott government is a bunch of climate sceptics who realise the Australian public are way ahead of them on protecting our environment, our community and our way of life. They figure they have to do something, and so they have developed this 'no direct action' policy, which is supported by absolutely no-one other than themselves, like many other of their policies.

You will hear, I am sure, senators who oppose this bill stand in this place and say, 'Australia will look foolish,' and there is no doubt about that. We were once leading the world in this area; we were ahead of our time; we were bold and charging ahead. All of that has gone. We are chickens, we have run off and we are risking our environment and our future to a policy which is supported by no experts at all. When we go to international forums, we will continue to look foolish. Let us see the government front up to those forums and try and convince world leaders that this is a good policy. For example, let us see what will happen at next month's in G20. We know that countries such as the US and China have very serious plans in place to tackle climate change, and what do we have? We have a joke of a plan—a 'no direct action' plan is what we will front up with; a scattergun plan and a plan which will waste $2.55 billion worth of taxpayers' money. It is a secret plan got up in a deal with the Palmer United Party, headed up by Mr Clive Palmer. Maybe at the G20 we will get to hear a bit more about this plan, because we are certainly not going to hear very much of it tonight in this place—because the deal, in secret, has been done.

In relation to the Palmer United Party amendments, Labor of course respects the work of the Climate Change Authority and has been very firm about keeping the Climate Change Authority in place and not allowing the Abbott government to trash the Climate Change Authority. But what all of us who believe in climate change agree on, no matter what our political persuasion, is that we simply do not need another report. We certainly do not need another report to describe what is happening in the rest of the world. We need action, and we have seen this failure by the Abbott government to take that action. We need an emissions
trading scheme and we need it now—not a report but action, and we need that emissions trading scheme.

Instead, what do we have? We have a farcical situation where the Climate Change Authority will be asked to do another report, and it is farcical because we already know, without the report being written, what the outcome will be. The environment minister has been very clear and has told us that he is not going to introduce an emissions trading scheme. If the need for an emissions trading scheme is the conclusion the report comes to, as no doubt it will, it is not going to be implemented anyway because the minister has been very clear in the media that he is not going to do it. So what is the point of this? The point is that it is part of the deal that Clive Palmer struck. We do not know the rest of the deal, but we know he struck that bit. Instead of the ETS Mr Palmer insisted that he was going to force the Abbott government into introducing when he had that huge fanfare with Al Gore and made all of those promises, which he has now broken, following in the footsteps of the Prime Minister, I might say—following the broken promise pathway—Minister Hunt has said there will not be an emissions trading scheme introduced. So why put the Climate Change Authority to the bother of doing a report? And, as I said, we do not need another report; we need action.

Just today, we have had a report from RepuTex, who confirmed that the deal done yesterday between Mr Palmer of the Palmer United Party and Mr Abbott at best will deliver 20 to 30 per cent of the emissions reduction that is needed to get Australia to the five per cent target by 2020. Yet, as usual—and, again, I heard him say this himself—Mr Hunt is categorically stating that we will meet our targets. Somehow Direct Action will achieve this, or perhaps it will happen by magic. Maybe he has a wand that he can wave to get to the targets or maybe they can reinvent the figures. We can all be a bit creative with figures. Perhaps that is how he will get to the targets, because the report today by RepuTex says that this deal simply will not.

This is a devastating report by RepuTex. It confirms that the secret deal, the dirty deal done by the Abbott government and the Palmer United Party, led by Mr Palmer, announced yesterday, is utterly hopeless for Australia’s future. It just shows the inability of the Abbott government to be a forward-looking, bold government. It is a wrecking-ball government as it takes its wrecking ball to our environment on behalf of future generations of Australians. For that, it should be ashamed. What it means is that, just to get to the five per cent target, the Australian government—Mr Abbott—is going to have to spend, on Ken Henry’s estimate, $4 billion to $5 billion per year between now and 2020. Or else it means—and this is, I suggest, the more likely outcome—the Prime Minister is going to have to give up on any substantial attempt to reduce Australia’s carbon pollution. Perhaps he will pretend that we do not have the problem that we currently have, because we know that the Abbott government is very good at inventing things that do not exist. The Carbon Farming Initiative has been trashed, and we now have a new acronym: one for the Emissions Reduction Fund—so many acronyms, but so little action from the Abbott government in partnership with the Palmer United Party.

The report from the Senate Environment and Communications References Committee was damning of the direct action policy. The report finds that Direct Action is no substitute for Labor’s comprehensive climate change policies and is unlikely to be successful by any indicator you care to put forward. The Senate committee recommended that the government not proceed with the Emissions Reduction Fund, as it is fundamentally flawed. The
committee made that recommendation on the following grounds: there is no legislated limit, or cap, on Australia's emissions in line with emissions reduction targets; there is insufficient funding to be able to secure enough abatement to meet Australia's emissions targets now or into the future; and there is a lack of robust safeguard mechanisms with stringent baselines and penalties for exceeding those baselines. Even the government's own department is not confident of Direct Action, repeatedly telling Senate estimates that they were unable to confirm that the policy will reach its targets. Once again, the Abbott government—in a dirty deal with the Palmer United Party—present us with a deal which is fundamentally flawed, and which will harm our environment and future generations of Australians.

Senator SIEWERT (Western Australia—Australian Greens Whip) (19:09): I join Leader of the Australian Greens, Christine Milne, in rejecting this appalling policy—this expensive joke of a policy—that has been cooked up in a deal done between a coal billionaire and the Prime Minister, who believes coal is good for humanity. This policy means that Australia—instead of being one of the global leaders in addressing climate change—will become a global joke on climate change. What more can you expect from a party that, fundamentally, are climate change deniers? There is no other way of looking at it. If you were really serious about climate change, why would you get rid of an effective package that was addressing climate change, building jobs and bringing down carbon emissions?

We are told that this deal will save the Clean Energy Finance Corporation. If memory serves me correctly, we saved that previously. Apparently this deal has saved ARENA. How do you save a body established to promote renewables and invest in renewables when you take $700 million out of it? That is not saving it. That is hobbling it while pretending to save it so that you can hold a media conference to say, 'Look, what we've done,' while forgetting to tell everybody that you have supported the government to rip $700 million out of it.

If PUP had supported the Climate Change Authority and stood with the Australian Greens and the Australian Labor Party, we would not have needed this flawed legislation to save the Climate Change Authority; we have saved it before, and we could save it again. This is a strategy to make Australia think that PUP have achieved something, when all they have achieved is facilitating Tony Abbott to wind back effective mechanisms to address climate change. PUP say that they support the RET, but, of their three senators, at least one does not support the RET. So you cannot believe that statement either. We have been told that all those things have been achieved by this deal, when really all that has been achieved is billions of dollars, in the long-term, going into the pockets of the polluters and the big end of town.

I want to remind people about what climate change is and what it will do to our planet and to future generations. What this government is doing by failing to adequately address climate change amounts to intergenerational theft: theft of their future, loss of food security and loss of species. Climate change will have fundamental impacts on our economy and on our marine environment. It will lead to increasing pests and diseases; health impacts, which we are only just starting to understand now, which are only going to escalate; and threats to our agriculture. This government is so bad that, when it released its green paper on its competitive agriculture policy, climate change was not even addressed—it got a mention twice, and one of those mentions is in a reference. The government has no strategies in agriculture for adequately addressing climate change.
Climate change will have untold impacts on our economy. It will have untold impacts on the species that will be lost due to climate change. We have already had so much impact on species, particularly here in Australia. We have already lost a number of species; Australia has the highest rate of mammalian extinction in the world. Because we have cleared so much of our country already, species will not be able to move to address climate change; they are losing their refugia. So even more species will be lost.

One of the biggest losses is to the renewable energy industry, which this government seems determined to rip down. They are ripping money out of the bodies that facilitate and promote the industry, and they are stopping projects that are just about to get underway. Where the transition has started from the old fossil fuel industries and energy sources to the new renewables that are creating jobs, providing employment into the future, providing research and development, not only in the construction areas, this government is clearly undermining those new industries.

Can you imagine what it would have been like if that is what they had continued to do for technology that had been developed? Can you imagine what would have happened if they had said, 'No, we'll stay with the horse and buggy, thank you very much'? In fact, there were some people that opposed changes and wanted to keep the horse and buggy, and they have been consigned to history. This government will be consigned to history for the impact that they are having. Generations ahead will look back and say, 'Actually, they did start addressing climate change back then. They had good measures in place and the Abbott government came in, tore them up and decided to support the dinosaur industries, the fossil fuel industries.'

This legislation is flawed. It will not work. It invests billions of dollars into plans that are clearly flawed and will not work. It is a short-term fix. It is incapable of being scaled-up to meet our emissions reductions challenges without a massive burden on public expense. It will cost taxpayers billions of dollars to meet even mildly—and I use the word 'mildly'—higher aspirations under an international agreement that will be negotiated in the future. The world expects Australia to do its fair share in limiting global warming to two degrees. The policy that is embedded in this legislation cannot get us anywhere near that requirement. There are huge commercial opportunities, currently, for countries that are transitioning from a high pollution-intensive economy into an efficient low-carbon and prosperous one.

The Carbon Farming Initiative Amendment Bill 2014 takes away any competitive advantages that Australia is currently developing and, instead, encourages business to be wasteful in its resources, or to rely on government subsidies for its profitability. This is from a government that pretend they are economic geniuses. Instead of the marketplace driving the innovations and productivity gains across multiple sectors of the economy, this bill will make government decision makers responsible for choosing those advantages in very limited sections of the economy. As I said, this is from the people that claim they are economic geniuses. They are undermining the advantage that Australia has by moving to renewable energy, moving to ensure that we have a future based on renewable energies. Not only could we have those renewable industries here, but we could then be selling the technology that we have been developing. It will not drive the transformational change necessary for Australia to prosper in a carbon constrained world faced with a climate change emergency.
There are many reasons for that, and I will go through some of the main ones. It is too narrow to achieve the lowest cost emissions reductions. The bulk of the grant scheme will be focused on energy efficiency. Despite the minister's assurances, energy generation, mining and transport will be cast aside from direct action. Carbon farming will only be competitive if the integrity of the scheme is completely abandoned by giving absolute discretion to the minister to vary the relevant methodologies. It is unfinancial because the grants are so small, contracts are limited to five years, payment is available only on completion, and the prices on offer are so low that it falls far short of being investment-grade. Finance institutions and banks will not waste their time to finance a project under the Emissions Reduction Fund. It is optional so that there is no incentive for polluters to participate. The scheme will be underutilised by all except for those best placed to receive easy subsidies. Low participation increases the cost of reducing emissions because of less competitive pressure. Furthermore, any reductions in emissions in one area of the economy will be lost by gains in another unregulated area.

It is costly because it requires a huge bureaucracy to administer the scheme. There will be very little emissions reductions for the amount of public money required to administer these expensive tasks. This is from a government who continue to say that they want to reduce red tape. It is economically illiterate because to achieve enough abatement to reach the government's paltry five per cent reduction target would require a carbon price of between $20 and $40. Under the existing budget the scheme could only pay $3.60 per tonne. It is pointless because the projects that are most likely to succeed under a reverse action will be low cost and will have a short payback period, meaning that they are most likely to happen anyway without the government's corporate welfare on offer.

In addition to these fundamental design flaws is the significant weakening of the methodologies that calculate how much carbon can be sequestered in the land. The overreliance on soil carbon as a silver bullet is flawed. Like the entire direct action policy, the mechanical framework has been painfully contorted in order to achieve superficial political objectives. In this case the government's political objective is to make funds for carbon farming competitive against energy efficiency or capital upgrade projects. To achieve this, carbon farming rules have to be massively weakened in order to get public money out of the door and into forestry projects similar to those driven by the managed investment schemes under the Howard government—and we know how many of those ended!

The wide discretion this bill provides to the minister to allow projects to generate credits removes any guarantee that a tonne of carbon paid for does not end up in the atmosphere. This would result in the worst of both worlds: public money spent on abatement projects that have no identifiable environmental benefits. To meet the UNFCC Kyoto rules, Australia's policy framework must be rigorous. Giving the minister huge discretion to undermine methodologies makes our compliance highly questionable and may make carbon credits ineligible in international markets.

Another area of serious concern is the removal of the prohibition, in section 27(4)(j) of the Carbon Credits (Carbon Farming Initiative) Act 2011, on a project earning credits from clearing native forests or using material obtained from clearing a forest. It is to be replaced by a requirement for the minister to simply 'consider' any adverse environmental impacts. The concern is that that would breach the Kyoto rules. The intention of the bill is to offer
desperately needed revenue streams to the failing native forest logging industry. That is very clear.

The Greens are concerned by the weakening of the additionality rules—the changes to the permanency requirements that allow 25 years of sequestration instead of 100. In short, 25 per cent of the time still gets you 80 per cent of the value. That is an extreme concern, as is the delinking of projects from natural resource management plans. We have an amendment to address that. Natural resource management plans are extremely important documents. They are the documents that guide the strategic approach to landscape-scale repair. It is a complete joke that this scheme would be delinked from natural resource management plans. The fact that the government does not want to use these carefully-thought-out strategic approaches to landscape-scale repair again makes you question whether the government is at all serious about this issue.

All of these major flaws in the scheme show that the government is not serious about addressing climate change. It only wants to be seen to be addressing it—while at the same time helping the big end of town. This scheme will have a massive impact on taxpayers for no gain, or at least no gain other than political gain.

This brings me to Direct Action, the government's pathetic, ill-defined excuse for climate action. The original Carbon Farming Initiative and the Biodiversity Fund—initiatives of the Greens and Labor—created jobs for farmers, Aboriginal communities and landfill operators. They generated more than 150 projects around Australia. The Abbott government, in combination with coal billionaire Clive Palmer, have destroyed these jobs and are causing the axing of investment in renewable energy. They are foreclosing on a clean green future for Australia, they are foreclosing on leading-edge research and they are foreclosing on our ability to constrain greenhouse gas emissions.

This is a flawed policy. It is a flawed approach to addressing climate change. Climate change will cause more extreme weather events, adverse health outcomes and, unfortunately, more deaths. We will see impacts on our agriculture and on our marine environment. We will see the loss of entire species as a result of climate change. This has fundamental implications for our planet—and, therefore, our economy. This is a serious backwards step.

We oppose this legislation but we will continue to campaign on climate change. We will continue to campaign for renewable energy. It has now been clearly demonstrated that we can achieve a 100 per cent renewable future. That is the future of our country. That is the future I want to see for my grandchildren and for their children. This condemns future generations. Not addressing climate change, I say again, is intergenerational theft and we will not support it. We will not be part of it. We will be part of the continuing campaign—because Australians want action on climate change. We will continue to campaign for a different approach, for a different future for our planet and for our country.

Senator McEWEN (South Australia—Opposition Whip in the Senate) (19:24): I oppose the Carbon Farming Initiative Amendment Bill 2014, which is just another piece of destructive legislation to add to this government's long list. They continue to dismantle, one bill at a time, the six years of good work done by the last federal Labor government. This bill is the vehicle for introducing the Abbott government's so-called Direct Action Plan, essentially a $2.55 billion taxpayer funded slush fund for polluters—polluters like Mr Clive
Palmer's nickel refinery, which may well be eligible for grants from the Emissions Reduction Fund the bill establishes.

The Carbon Farming Initiative Amendment Bill will do nothing to advance Australia's climate change credentials and very little, if anything, to reduce Australia's harmful carbon emissions. Everybody knows that Direct Action is a dud. Scientists, economists and experts everywhere tell us that it will not deliver on Australia's emissions reduction targets and that it will cost the taxpayer more than Labor's plans to reduce harmful carbon emissions.

Prior to the 2013 election, Labor fulfilled our international responsibilities and our responsibilities to future generations. We did our part for climate change abatement by setting achievable emissions targets, by building the policy infrastructure and by investing in our future. Under Labor, wind power generation in Australia tripled. Under Labor, the number of jobs in the renewable energy sector tripled. Under Labor, the number of Australian households with rooftop solar panels increased from less than 7½ thousand homes to almost 1.2 million. Under Labor's carbon price legislation, carbon emissions were reducing. It was working. But Palmer and the Abbott government voted to get rid of the carbon price, and now they have colluded to rip off taxpayers with the dud scheme contained in this bill.

The bill seeks to amend the previously successful Carbon Credits (Carbon Farming Initiative) Act 2011 to establish an emissions reduction fund by allowing for a broader range of activities to be eligible to earn greenhouse gas offset units—Australian carbon credit units—under the Carbon Farming Initiative by reducing regulatory requirements associated with the development of methodologies under the Carbon Farming Initiative and allowing for the Clean Energy Regulator to purchase greenhouse gas emission offset units from qualifying projects on behalf of the Commonwealth. It also makes minor amendments to the Australian National Registry of Emissions Units Act 2011 and the National Greenhouse and Energy Reporting Act 2007 and provides transitional provisions for projects earning greenhouse gas offset units under the Carbon Farming Initiative arrangements.

These amendments will not be enough to do anything meaningful about Australia's climate change and harmful carbon emissions. While the rest of the world moves towards a carbon restrained and hopefully carbon-free future, Australia is embarrassingly languishing behind. Far from making positive headlines, as the Labor government used to do in the environment sphere, the Abbott government is being touted internationally for being the first country in the world to remove an existing successful price on carbon. And now we have this Direct Action joke—a grubby deal between the Abbott government and Clive Palmer, a deal that pays polluters and has no sanctions that will stop polluters from polluting.

Currently over one billion people are living in nations or provinces where a carbon price or emissions trading scheme operates. It is expected that within the next two years three billion people will be living in a nation with such a scheme. Our top five trading partners have ETSs at national or subnational levels. Another eight of our top 20 trading partners also have ETSs at national or subnational levels. That means that 13 of our top 20 trading partners have emissions trading schemes applying to their economies right now. And then there is us, for whom things seem to be going from bad to worse. We are going from the widely accepted path of genuine emissions reductions—a price on carbon—to a scheme that will not work. What kind of a joke will Australia be at next month's G20? As a signatory to the Kyoto Protocol—the United Nations Framework Convention on Climate Change—we were required...
to nominate a greenhouse gas emissions reduction target. Australia's target for the period 2013 to 2020 is a reduction in emissions of five per cent compared with 2000 levels by 2020. Admittedly for some people that target was not enough. But, as I said at the beginning of my speech, it was a responsible target.

Yesterday's news of this dirty deal between the government and Clive Palmer is terrible news for the environment and puts our commitment to the protocol at risk. RepuTex's report confirmed that the deal struck between Mr Hunt, the Minister for the Environment, and Mr Clive Palmer will, at best, deliver 20 to 30 per cent of the emissions reduction needed by Australia to get to that five per cent target by 2020. An independent analysis confirms that the deal announced yesterday is hopeless for Australia's future. The government is going to have to spend, on Ken Henry's estimations, $4 billion to $5 billion per year between now and 2020 to meet the five per cent reduction—either that or we give up entirely on any substantial attempt to reduce Australia's carbon pollution.

While the United Nations has said that climate change should be the No. 1 priority for all leaders to consider and that it is the defining issue of our time, Mr Tony Abbott and his colleagues on the other side of this chamber continue to overlook the evidence, continue to disregard the scientists and experts, and continue to ignore the statistics. The President of the United States, Barack Obama, says that climate change is one of the most significant long-term challenges, if not the most significant long-term challenge, that the planet faces. But Mr Tony Abbott, the Prime Minister of Australia, does not believe it is an important issue.

I would like senators to cast their minds back to 2009, when Mr Malcolm Turnbull composed an opinion piece for the Sydney Morning Herald entitled 'Abbott's climate change policy is bullshit'. Five years later, absolutely nothing has changed—except that the person Mr Turnbull was referring to is now the Prime Minister of Australia. The policies and the views are still the same, and if Mr Abbott's own party members can write opinion pieces so dead against his views, why should Australians be subject to them?

The truth of the matter is that the carbon pricing scheme that was in place was working. Economic growth was solid, inflation was under control and emissions were actually being cut. People do not want Direct Action, and neither does business. In fact, a Fairfax Media survey from this time last year of 35 university and business economists found that only two believed that Direct Action was the better way to limit Australia's greenhouse gas emissions. I am not sure whether one of those was Mr Clive Palmer! Thirty, or 86 per cent, favoured the former carbon price scheme—Labor's carbon price scheme. And a Senate inquiry into Direct Action did not hear from one single expert who could support the government's plan or show any confidence in its capacity to reach Australia's emissions reduction targets. The Senate committee recommended: that the government not proceed with the Emissions Reduction Fund, as it is fundamentally flawed. The committee recommended this on the grounds that there is no legislated limit, or cap, on Australia's emissions in line with emissions reductions targets; that there is insufficient funding to secure enough abatement to meet Australia's emissions targets now and into the future; and that there is a lack of a robust safeguard mechanism with stringent baselines and penalties for exceeding baselines.

Even the government's own department is not confident in Direct Action, repeatedly telling a Senate estimates hearing that they are unable to confirm that the policy will reach its targets. The government, however, keeps declaring their unwavering confidence in the direct action
policy, despite having no evidence to support their position. The government continues to fail to produce any research or modelling to underscore their confidence. Independent modelling has proven the government's climate change policy will cost billions of dollars more than Mr Tony Abbott claims and has no chance of meeting Australia's emissions reduction target. Their policy is a con, an environmental fig leaf to cover a determination to do nothing meaningful or systemic to address climate change. All of the experts are agreed—and probably aggrieved. Mr Tony Abbott's and Mr Clive Palmer's policy con will not reduce carbon pollution but will cost households more. With all the experts once again lining up, when will the government listen and start moving forward on climate change instead of doing grubby deals and moving backwards?

Since before the 2013 election, Labor have argued that the most effective way to reduce Australia's carbon pollution is to put a cap on emissions that decreases over time and let business work out the best way to operate within that cap. There has, again, been much discussion about emissions trading schemes in the last few weeks. While the scope, size and linkages with other schemes can vary, the fundamental principles of an ETS—the cap on pollution and underpinning price mechanism—are the most widely supported climate policy measures across the world. If Labor had been elected last year, Australia would be operating within a system like that right now. Instead, the Prime Minister is making Australia the only country in the world to take reverse action on climate change and to stop doing anything worthwhile about climate change at all. My colleagues in the Labor Party and I will not let this legislation pass without a fight. I am speaking not only on behalf of myself and the Labor Party but also for my constituents, for my state and for the future of Australia's environment and children. However, it seems that no matter how many of us speak against the government's position on the environment and its weak position on climate change, the Prime Minister is not willing to listen. It is with great sadness that, at some point tonight or tomorrow, this bill will pass, but I will be pleased to have on record my opposition to it.

Senator RICE (Victoria) (19:39): I rise to speak in opposition to the Carbon Farming Initiative Amendment Bill 2014. I am speaking tonight on behalf of the majority of Australians, who want serious, powerful, urgent action on climate change. Australia has been a leader in acting on climate change, and we have rapidly moved to the bottom of the pack. We are facing serious problems. The world is going to be a different place, if the climate change that is currently foreshadowed occurs. Currently, we are on track for four degrees of warming and more. The extreme weather events that that will result in are going to have huge implications for Australia and the world. The rising sea levels will have massive implications for billions of people around the world and for people in Australia, like my mother, who still lives in Altona, which will not exist if sea levels rise a meter. There will be a loss of species, because of that amount of warming. There will be an impact on our food supplies. I think that people who are not serious about taking action on climate change have not understood what the implications are.

The implications are that our wheat growing areas in Australia will no longer be able to grow wheat, when the climate of Dubbo, for example, becomes the climate of the central deserts. With four degrees of warming, it will not be possible to grow food crops in the tropics, and that will impact on the world, on refugee movements and on billions of people. It will impact our water supplies, increasing droughts. There will be loss of lives due to more
intense bushfires spreading over a longer period of time, affecting more people more widely. Hundreds of people died in the heatwave that preceded the 2009 Black Saturday bushfires in Melbourne. Then over 100 people died in the bushfires themselves. This will become the new norm.

I am here speaking on behalf of people who understand this reality, particularly young people and people who have understood the science and said, 'Yes, this is a very scary situation that we are looking at,' but realised that they can take action to change these things. Restoring a safe climate for us all—for humans and all the species which we share this planet with—is something that we can do. We know that it is possible, but we have to take serious, important action. The very sad thing is that Australia was on track to be doing that. We had the architecture set up. We had an emissions trading scheme. We had measures in place that were the beginning on which to build to create the reduction in carbon emissions necessary for Australia to play its part and to be a world player in reducing carbon emissions. We were heading towards a future of zero carbon emissions, so that we could restore a safe climate for humans and all the other species that we share this planet with to live in.

I have spoken to people across Australia who are disturbed and distressed by the actions and backward steps that Australia is taking on climate change. They look at what other countries are doing and think, 'Well, there is a saving grace: with Australia being a laggard and completely left behind, at least other countries are taking action.' They look at the actions that are being taken in the European Union and their very ambitious reduction targets. They look at the fact that coal in China is about to reach its peak and is going to be declining. They look at the massive rollout of solar energy in India. Then they look back at Australia and think, 'Poor, poor Australia, we are being left behind.' They know that it is not just an environmental issue; it is both a social and an economic issue. We know that all of the international agencies, the World Bank and the International Monetary Fund have done the reports. They have said that it makes more sense economically to be taking urgent action on climate change now rather than leaving it to the future.

The government's Carbon Farming Initiative Amendment Bill and Direct Action Plan are a fig leaf. We have already heard today from my colleagues how little it will impact on our carbon emissions. The RepuTex report estimates that it will achieve a 20 to 30 per cent of the five per cent cut in emissions by 2020—that is, a one per cent reduction in Australia's emissions. In fact, we were already well on the way to doing that with the emissions trading scheme and the price on carbon that was initiated, which has now been scrapped.

We need meaningful action. We know that Direct Action, as well as being ineffective, will be massively expensive. I hear the government benches, day after day, say that it is important that in a budget emergency we have to be careful how we spend our money. Yet $2½ billion will be spent and which will achieve so little. What is worse is that the $2½ billion that will be spent will go into the pockets of the big polluters, to be doing something that they probably would have been doing, anyway.

In repealing the clean energy future package, we have dismantled infrastructure that will have to be reconstructed again in a very short time period because direct action will not work. In doing this, there will be a significant cost to Australia in lost time, money, innovation and competitive advantage. We need to be working towards an economy and a society that is
powered by 100 per cent renewable energy. This direct action is taking us backwards in that regard. We need to be putting infrastructure together that will enable us to phase out coal.

The very sad thing is that, when we finalise this debate, we will have the summing up done by a government that says that coal is good for humanity and that makes ridiculous quotes about the support for coal that Bob Brown once had in 1981. I expect that is what we will hear from Senator Cormann in his summing-up. It is just inane and the people listening to it will know that it is inane.

In order to be taking real action on climate change we need to phase out coal. We know that it will be in Australia's economic interest to do that. We need to be saying no to increasing coal exports through the Great Barrier Reef; saying no to unconventional gas, including coal seam gas; and to be saying yes to renewable energy.

Our emissions trading scheme was an important, efficient and effective way of doing this, backed by the Clean Energy Finance Corporation and ARENA. We now know, having just received the details of the bill that is coming up tonight, that the Clean Energy Finance Corporation and ARENA are said to be abandoned at any time after December, in two months time. Critical parts of the infrastructure are there and the uncertainty that has been put in place will just create further devastation for any remnants of action on climate change that was being taken.

The government is sticking its head in the sand. My message to the government is: Direct Action is not the climate action that Australians are looking for. We want decisive, effective and fast action. Direct Action is a slogan, not a real policy. And it comes from a government whose only real priority is propping up its friends in the big end of town. These friends of the government are people who are still misguidedly living in a parallel universe where, supposedly, burning fossil fuels can continue unabated. The government is addicted to fossil fuels. It is trying to drag the dirty coal fired industries of the 20th century with us into the 21st century, instead of helping us transition to a clean energy future.

Direct action is not a viable replacement and it is vastly inferior to the carbon-pricing mechanism we had. We had a world-leading scheme to price pollution and to drive down dangerous global warming emissions. It is inevitable that pricing carbon pollution will become a permanent feature of the global economy. Even Clive Palmer, with his emissions trading scheme, recognises that. He knows that people around the world know that an emissions trading scheme is the most effective way to get effective action.

Under this government Australia is totally out of step with international trends and efforts to address global warming. We are not just out of step; we are stepping backwards fast. Direct Action is a high-cost, narrow, government-controlled scheme, the intent of which was to replace the existing market driven, economy wide, lowest cost method of reducing harmful greenhouse gas emissions. What this dodgy direct action scheme consists of is voluntary grants that will just allow the polluters to get their sticky fingers into taxpayers' pockets.

Mr Clive Palmer and his Palmer United Party senators is a good example. We now know why Clive Palmer has been interested in supporting the government on abolishing the carbon tax: he did not have to pay tax for his carbon emissions but now he stands to potentially benefit from Direct Action.
Another thing that makes me sad, knowing that this is such an important policy and that we are going backwards on the most serious issue that faces humanity today, is the secrecy and the haste. We are voting tonight on a bill where even the Palmer United senators did not know their own party's amendments until this morning. This is not the way to do business, it is not the way to do government and it is not what the people whom I represent want to see happen. They have got expectations that we will be considering important pieces of legislation such as this seriously, with due regard and due respect, paying proper attention to what all the implications mean. Yet we know that we will have sent Australia backwards on our journey towards acting on climate change by the time we rise tonight.

A very important impact of this policy that has only just become evident this evening is the impact on our forests. The Carbon Farming Initiative, as it stands, had a prohibition on the clearing of native forests or the use of products that come from native forests being eligible under the carbon farming initiatives. But we now learn that that prohibition is no longer in this bill. So we now know that there is the potential for the clearing of our native forests and the use of wood products that are harvested from those forests to be considered as eligible carbon farming initiatives. This is opening the door to be logging our native forests and to be burning the products from those forests in forest furnaces for so-called clean energy. At a time when we have the native forest based industries on their knees in Australia because they do not have a product for their woodchips on the world market, and at a time when the majority of Australians want to see protection of our native forests, it is going to be opening the door for logging of those native forests—and getting further subsidies for doing that—and destroying our native forests by burning them in forest furnaces for energy.

This is very indicative of how sad and how debased this debate has become and of how out of touch our policies in this parliament are with what Australians want. We know that the majority of Australians want to see serious action on climate change. Every poll shows that is the case. The majority of Australians want to see protection of our native forests. But tonight we are serving the interests of environmental destruction and serving the interests of the biggest polluters—and paying them excessive amounts to do it.

The Greens, as you know, are going to be standing up and doing our best to bringing attention to how we are going backwards in this debate. I am proud to be here tonight as part of a party that is standing up for the environment, is standing up for serious action on climate change and is standing up and wanting to do something to get answers and to get protection for our future. I have two children and I hope to have grandchildren one day. I want them to have a planet that is liveable. I want them to have a planet that allows them to be healthy and allows them to have the same quality of life that I have had. Under the prospect of dangerous climate change, I feel frightened for them. I really think that, unless we come to our senses and join other governments around the world in coming to our senses, it is a really a bleak future.

The positive side of this, however, is that I know that there are things that can be taken; there are solutions. It is in our power as a parliament to be taking action that will set us on a path of a positive future—a path of 100 per cent renewable energy and one that creates jobs and supports those renewable energy industries that are burgeoning across Australia and across the world. I know that we can be transitioning to a zero-carbon economy and that it
will be cheaper for us to do. But, instead, tonight we are going backwards. And I think that is a very, very sad place to be.

Senator URQUHART (Tasmania—Deputy Opposition Whip in the Senate) (19:56): I rise to oppose the Carbon Farming Initiative Amendment Bill 2014. The government is seeking to amend the Carbon Credits (Carbon Farming Initiative) Act 2011 to allow for the Emissions Reduction Fund to be administered and to allow its fundamentally flawed direct action plan to start.

Firstly, I would like to say that Labor is very supportive of the Carbon Farming Initiative—as we always have been. But we do not support the direct action dud of a policy. Well, what a day of surprises we saw yesterday! We saw both the government and the Palmer United Party backflip on their promises. PUP’s promise to the Australian people and to legendary climate hero, Al Gore, for an emissions trading scheme to be legislated went by the wayside. His commitment to reject the appalling direct action policy was unceremoniously dumped. The government’s promise to shut down the Climate Change Authority was promptly overturned. Amongst the ever-growing list of broken promises by this government, this is one that I can support.

So, now, we have a very curious situation. We have a government that has done absolutely everything in their power to tear down Australia’s climate change. They have abolished the carbon tax, making Australia the only country in the world to be moving backward on climate change. They have shut down the Climate Commission. They want to axe the Clean Energy Finance Corporation despite the fact that it has made a positive return to government finances. They are trying to shut the doors on the Renewable Energy Agency. They commissioned a climate sceptic to launch an inquiry into the Renewable Energy Target, with the excuse that the RET is pushing up power prices. When the inquiry found that the RET will actually reduce electricity prices in the medium term, they still ploughed on with attempts to reduce the RET by 40 per cent.

This is a government that is single-mindedly focused on demonising renewable energy while praising dirty fossil fuels. This is a government that is belligerently holding Australia back from the vital transition to a low-carbon economy. And this is a government that is turning its back on Australia’s responsibilities as a global citizen to contribute to reducing global emissions. We have heard the Prime Minister, Tony Abbott, say:

Coal is good for humanity…

He has accused the executive secretary of the UN framework on climate change of, and I quote:

… talking through her hat.

He has refused to attend both the international Climate Summit in New York and international climate change negotiations in Warsaw.

We saw the Prime Minister try and fail to organise a global alliance of climate denying countries to turn back the tide on climate change action. We have listened to the Prime Minister's climate change denying sidekick, Mr Joe Hockey, bemoaning that wind farms are 'utterly offensive'. Despite all this, the Abbott government is launching an inquiry into emissions trading schemes. But worse: they have already promised they will do nothing about
it, regardless of what the inquiry finds. In fact, Minister Hunt has said the inquiry was given to the Climate Change Authority because, and I quote:

… they might as well do work.

What a dismissive and demeaning thing to say about these hardworking experts and their important work. And what a terrible shame that the government is too arrogant, too stupid or too conflicted to listen to their expert advice.

In about 18 months, we know the inquiry will tell the government what scientists, economists and policy experts across the world already know. That is, that the government needs to implement a market based mechanism to tackle climate change. This is sound advice indeed, which the government will promptly ignore. What a strange world we are living in!

We in Labor know that all evidence shows that the most efficient, lowest cost means to achieve carbon abatement is through market mechanisms like emissions trading schemes. We also know that the government is absolutely determined not to do anything to address climate change. The bill before us today is not so much about carbon farming as about the Abbott government's direct action policy. Direct action is bad policy, direct action is expensive policy, and direct action is ineffective policy. It will not achieve its goals and it will cost the Australian taxpayer $2.55 billion in the process. The truth is that direct action is little more than a multibillion dollar slush fund for polluters. It has received scathing reviews from the scientific community, which knows that it will not meet its carbon abatement targets.

Economists have pointed out that the Abbott government is pursuing one of the most expensive means of carbon abatement around. This is particularly hard to swallow when you consider that those opposite are blatantly wasting money while they are lecturing the country that they can no longer afford appropriate funding for health, education and our welfare safety net. This is quite simply outrageous.

Direct action throws away the fundamental principle of polluter pays in favour of a government funded slush fund for big polluters. Pollution is an output of business, like any other, and it should be levied as such. Environment Minister Greg Hunt knows that this is a key principle of achieving low-cost carbon abatement. In fact, he is an expert in the area, after penning his honours thesis which was entitled 'A tax to make the polluters pay'. On the issue of reducing pollution, Mr Hunt's thesis argues:

Ultimately it is by harnessing the natural economic forces which drive society that the pollution tax offers us an opportunity to exert greater control over our environment.

I do not know about you, Madam Acting Deputy President, but it sounds very much like a solid argument for an emissions trading scheme to me.

As we all know, those opposite, who are normally the greatest champions of free market solutions over subsidies, have taken a very bizarre path on climate change. They are throwing away market mechanisms in favour of direct and substantial government subsidies through their direct action policy. Perhaps the only member of the government who has been honest about the direct action policy is the member for Wentworth, Mr Malcolm Turnbull. In December 2009, Mr Turnbull penned a piece for The Sydney Morning Herald calling Tony Abbott's climate change policy an objectionable word that I cannot use in this chamber. In this article, Mr Turnbull wrote:
… as we are being blunt, the fact is that Tony and the people who put him in his job do not want to do anything about climate change.

Now politics is about conviction and a commitment to carry out those convictions. The Liberal Party is currently led by people whose conviction on climate change is that it is "crap" and you don't need to do anything about it. Any policy that is announced will simply be a con, an environmental figleaf to cover a determination to do nothing.

That is what Mr Turnbull said. Then, on 8 February 2010, Mr Turnbull reinforced his justifiable disgust for the policy, telling the parliament that direct action would be:

… a recipe for fiscal recklessness on a grand scale.

This perspective is borne out by the recent Senate inquiry into direct action which could not find one single witness willing to support it as a credible stand-alone solution to address climate change. During the May 2014 estimates, the environment department itself admitted it was unsure of the policy's chances of success due to its incomplete state.

There are some glaring fundamental concerns with the direct action policy. Firstly, as I have mentioned, it is highly unlikely to meet its emissions reduction targets. Recent research from RepuTex shows that even if the full $2.55 billion is used to buy abatement the government will fall 300 million tonnes short of its carbon emissions reduction targets. To meet our commitment of reducing Australia's carbon output by five per cent by 2020, the government has allocated $1.55 billion over three years. But work done by SKM MMA and Monash University shows this falls $4 billion short, even using the most generous parameters.

Similarly, former Treasury Secretary Ken Henry and leading Australian economist Ross Garnaut found it is likely to cost up to $5 billion to reach the target with the proposed Emissions Reduction Fund. We also know there are serious concerns about the design of the program. The Emissions Reduction Fund is supposed to be based on the principles of lowest cost emissions reduction through a reverse auction and genuine emissions reduction. However, the definition means that projects that were going to go ahead anyway will qualify.

Another flaw is the fact that baselines will be enormously difficult and incredibly burdensome to administer. There is a lack of a robust safeguard mechanism with stringent baselines, especially when no historical data exists, nor do penalties for exceeding baselines. Even if there were an effective safeguard mechanism, the government only expects around one or two hundred companies to be subject to it, covering only around 52 per cent of Australia's emissions. Industry representatives also criticised the difficulty in setting benchmarks and enforcing emissions reductions.

But it gets worse. Not only are there industry benchmarks, but the government's dodgy direct action policy does not even include a cap on emissions. This is a virtual admission from the government that they have designed the program to fail from the beginning. Also, the Emissions Reduction Fund, as designed by the government is an entirely voluntary program which businesses can choose to participate in or ignore on a whim.

For so many reasons, this is a deeply flawed policy. It will not only give big polluters a free run, it will actually pay them for the privilege. At a time when the world is moving toward coordinated action, this dodgy deal represents a serious threat to our global credibility and to
global action on climate change. I am proud to be standing on this side where we will oppose the bill.

Senator XENOPHON (South Australia) (20:07): At the outset of my speech on the Carbon Farming Initiative Amendment Bill 2014, I would like to thank Minister Hunt and his advisers, Temay Rigzin and Alex Caroly, for the many, many hours they have spent discussing this bill and the government’s policy with me. I appreciate their time and the good faith in which we negotiated on this legislation. It would also be remiss of me, despite her protestations, not to thank Hannah Wooller, my senior legislation and policy adviser, who has worked very, very hard on this and has provided valuable advice and shown a great commitment to improving this piece of legislation.

I also want to make my position very clear: I am a strong believer in anthropogenic climate change, and I consider it to be one of the biggest challenges we face as a nation and as part of the global community. And for those who are sceptical, I urge that they heed Rupert Murdoch’s salutary warning that we need to give the planet the benefit of the doubt.

I believe we need to take real and urgent action to address the environmental and economic challenges before us. I supported the repeal of the former government’s carbon tax because I believed, as I still do, that it had significant economic impacts due to its enormous revenue churn, impact on power prices, unnecessary compensation and its tax interaction effect without the commensurate environmental benefits in return.

I also still have concerns about the current government’s direct action policy, and with the shape and operation of the Emissions Reduction Fund. But my greatest concern is that, if this legislation does not pass, we will be left with nothing—nothing to support the reduction of Australia’s emissions; nothing to provide investment certainty, let alone investment incentives for businesses engaged in abatement or related activities; nothing to meet our international obligations; and nothing to protect our future.

I also want to emphasise the need to pass this bill as soon as possible. I do not and will not support motions to gag the debate. But I do believe that there are genuine reasons to give this bill priority, and I was happy to support the extended sitting hours to ensure that this is the case.

If this bill does not pass, the existing projects under the Carbon Farming Initiative will face collapse. The main market for credits generated by these projects has been companies looking to offset their emissions under the carbon tax, and, now that the tax has been repealed, the CFI projects face the loss of their main market. There are currently 171 projects registered under the CFI. The failure to pass this bill will mean the loss of hundreds if not thousands of jobs and the end of these projects as the carbon tax legislation obligations are completely wound up in February next year. We will also lose the abatement that these projects are achieving, which will seriously impact our ability to reach our 2020 target, as modest as it is.

We are already being left behind many other developed countries in terms of our policies and activities. I have no desire to see that gap widen. And I suspect that early next year the United States and China will announce significant and ambitious emissions reduction targets, which will be the subject of debate at the Paris conference at the end of next year.

One of the most important factors in achieving environmental outcomes and successful emissions reduction is investment certainty. We are, however, now facing a situation where
investors are simply turning away from Australia because they just do not know where things will be in a few months, let alone a few years. And that means a lack of clear direction doesn't just hurt our environment; it hurts our economy.

The establishment and then the repeal of the carbon tax, the uncertainty and lack of clear policy regarding Direct Action, the attempt at the dismantling—still thwarted by the Senate, fortunately—of the Clean Energy Finance Corporation, ARENA and the Climate Change Authority have all created disincentives for investment. And of course there is the whole issue of the RET.

Since 2008, over 100,000 jobs have been lost in the Australian manufacturing sector. Even more are set to go as Holden, Ford and Toyota wind up their manufacturing arms. This will hit particularly hard in Victoria and in my home state of South Australia, where job losses from Holden may well set off a chain reaction of more losses from component manufacturers, particularly if the government's reckless policies in respect of gutting the Automotive Transformation Scheme are implemented. These are policies I will resolutely oppose.

Renewable energy and other innovative technologies could at least partially fill the gap left by these closures and create more jobs. And part of that support required is the government signalling a long-term commitment to growth and investment in the area. In my view, the ERF is not an ideal scheme. But it is the scheme that we have before us, and I believe there are ways to make it work much better than was proposed just a few months ago.

My biggest concern with the legislation as it stands is the lack of a safeguard mechanism. I acknowledge that the government's direct action white paper outlines the intention to introduce a safeguard mechanism in separate legislation before 1 July next year, but I cannot see that date being realistic, and nor is there a guarantee that it would be legislated in any subsequent legislation. That is why these amendments have been brought forward.

Also, without a hard legislative trigger to require the introduction of the mechanism by a certain date, it is a very real possibility that the harsh realities of this Senate and the political environment may mean the safeguard never really happens. If the government is intent on creating a scheme that relies solely on taxpayer funds to reduce emissions, then they have a clear duty to ensure that those funds are appropriately spent and represent true value for money, as well as achieving a credible environmental outcome. There is no point in handing out billions of dollars to reduce carbon emissions only to have those gains offset by increases in emissions elsewhere in the economy.

As US President Theodore Roosevelt once said, the key to diplomacy—and therefore, presumably, the key to negotiating with large emitters—is to speak softly and carry a big stick. In this case, the safeguard mechanism needs to be the big stick to the ERF's gentle encouragement. I am also concerned that the ERF is too dependent on the budget. There is little to no incentive to encourage emissions reduction activity outside the reverse auction process to be established by the government.

At this point in time, that may not necessarily have a significant impact. It is generally acknowledged that Australia is well on the way to achieving the bipartisan agreement of five per cent reductions on 2000 levels by 2020, as modest and unambitious as that is. But the Paris conference is just 12 months away, and we might—or at least we should—be facing much tougher targets in the near future. There is just no way in the tough financial times the
government tells us that we are facing that we can make the necessary financial outlay to meet those potential targets. Instead of just focusing on 2020 and the forward estimates, we need a longer term scheme that can operate independently of government funding. We need to know what the next steps are going to be beyond the next election cycle.

I readily admit that the ERF is not my ideal scheme for reducing emissions reductions. I made a secret in saying that I still sup
[0x0]rt the scheme drafted by Frontier Economics for then opposition leader Malcolm Turnbull and me in 2009. I take this opportunity to thank the tremendous work, the integrity and the credible work that Danny Price from Frontier Economics, Matt Harris and others that work with them have done over the years. I thank them for their prescient advise in relation to having a credible emissions trading scheme. But given the political context, both domestically and overseas, I have tried to take a pragmatic view. We must not let the perfect be the enemy of the good.

A few weeks ago, I circulated draft amendments aimed at addressing my particular concerns in relation to this legislation. I asked for feedback from peak bodies, industry groups and other interested parties, including my colleagues in this place. I would like to take this opportunity to thank the many organisations that took the time to provide their feedback on these draft amendments. I think it is fair to say that most of these responses were generally supportive, although many believed the proposed amendments could go further. I foreshadow that I will be moving the final version of these amendments during the committee stage, but I will take this opportunity to outline them in brief.

There are five sets of amendments in total, with the most complex being those that aim to establish a safeguard mechanism and a strategic reserve. After the release of the direct action white paper and the ERF legislation, my biggest concern was the lack of detail surrounding the safeguard mechanism. In my view, without that the legislation is nothing more than a grants program. In that sense, Clive Palmer MP was right a few months ago. As much as it pains me to say that I agree with Mr Palmer, he was right in respect of that. I acknowledge that his approach a few months ago was a good one. He acknowledged that it was just a grants program.

There is no mechanism to make sure that emissions reductions in one area are not outweighed by increases in another. There is nothing to set baselines for operation or to ensure they are abided by. While all of these things were discussed in the white paper, there is nothing to guarantee they will be put in place. My proposed amendment puts a framework in place to require the minister to establish safeguard rules by 1 July 2016—that is, to operate from that date. This date itself is a compromise, given that the proposed date of 1 July 2015 is unlikely to be met.

The amendment requires the rules to cover reporting duties, the establishment of baselines and how emitters can reduce their emissions. It also makes it a breach of the law not to abide by the rules. The amendment also requires the minister to establish civil penalties through regulation. These penalties must ensure that an emitter does not benefit by breaching their baseline—that is, that the penalties are a true disincentive. This framework is consistent with the proposal outlined in the government's white paper. What it does, however, is provide some certainty by signalling the introduction of the rules and what shape they will take. I note that Minister Hunt has said that any penalty will not be going into a general revenue, but that does not mean that you could have a system in place whereby an emitter that exceeds the
baseline must purchase carbon credit units. I would have preferred to have the mechanism established by the 1 July 2015 deadline, and for the baselines and rules to be much stricter than is likely to be the case. But there is a framework in place that is credible and workable.

I have also circulated a proposed amendment that introduces the capacity for a strategic reserve to be created. The aim of such a reserve is to allow the regulator to purchase international units to assist Australia in meeting the 2020 target, if required. The amendment puts the creation of a strategic reserve at the minister's discretion, but does require the minister to consider certain matters before directing the regulator to purchase units. For example, the minister needs to have regard to Australia's obligations under international climate change agreements, Australia's undertakings concerning the reduction of greenhouse gas emissions that Australia has given under international climate change agreements, the total amount of carbon abatement contracted by the government under the Emissions Reduction Fund, Australia's current and future climate change targets, and ensuring the value for money of funds expended under the strategic reserve.

The reserve is capped at $500 million to 2020, which is a maximum of 20 per cent of the current amount allocated for the proposed fund. The regulator is also restricted in the kind of units it can purchase to ensure only high-quality units make up the reserve. In the longer term, the existence of the reserve would also provide a pathway for broader international trading for Australian entities. However, the government appears to have taken an obdurate, ideological stance to the concept of a strategic reserve and, as such, will oppose these amendments. I urge the government to reconsider and to listen not only to environmental groups that believe this reserve is essential to achieve higher targets but also to key business groups. For instance, I am grateful for the strong support of Innes Willox from the Australian Industry Group for a strategic reserve, as proposed in these amendments. I would urge him and his colleagues in the business community to continue to encourage the government to see common-sense on this proposal.

I have also drafted amendments to extend the standard contract duration from five to seven years. Similarly, a further proposed amendment requires the Emissions Reduction Assurance Committee—ERAC—to review the crediting periods for each methodology one year before the crediting period of the first project registered under that methodology expires. The purpose of the review is to require the committee to recommend to the minister whether the crediting period under the methodology should be extended. If that is the case, projects already registered will have their crediting periods extended in line with the committee's recommendations.

This is a good thing for certainty and particularly for those bigger projects in emissions abatement. This will help to support and encourage projects with longer term abatement capabilities, and to signal to investors that this scheme has the potential to operate beyond the initial budgeted period. An extension of crediting periods will also help to support a market for units outside the government's reverse auction mechanism. In turn, this could assist in transitioning the scheme away from its dependence on government funding and towards operating independently.

The final proposed amendment proposes a change to the objects of the act to ensure that agreements entered into post-Kyoto will be taken into account. This amendment is based on section 55(3)(b)(ii) of the existing act and will not have any additional impact other than to be
a point of clarification. Again, the aim here is to signal the long-term operation of the ERF and to help to provide certainty to a sector that has borne the brunt of short-term policymaking by successive governments. Together these amendments will also provide a solid foundation and the architecture to enable future governments to meet the increased targets that I believe will be inevitable after the Paris conference. Any future changes will of course require the approval of the parliament.

I would also like to take this opportunity to acknowledge that the final version of these amendments does not differ substantially from the draft, despite the constructive and detailed feedback I received in response to these exposure drafts. Unfortunately, despite many hours of negotiation, the government was not willing to concede to any but one of these proposed changes, and I will be asking for more details of their positions during the committee stage of this debate. I do still believe that these amendments are worthy, however, and that they represent a significant improvement on the bill as it stands. I also take this opportunity to call on the government to ensure that the relevant aspects of this legislation are thoroughly and constructively discussed with industry and environmental groups.

This is not a perfect scheme, but if the proposed amendments pass it will be a good scheme. I also call on the opposition to give their support to the amendments and to the legislation, because an indication of bipartisan support will go a long way to providing further investment certainty to Australian industry. I look forward to debating these matters further in the committee stage, and I hope that we can conclude this bill this evening.

**Senator DAY** (South Australia) (20:23): This year will see the world enjoy its greatest grain crop on record. Let me say that again: this year will see the world enjoy its greatest grain crop on record. After the world food crisis in 2007, which saw civil unrest in some countries, it is fantastic to see that in just seven years we are producing record amounts of food for a growing world population. The US Department of Agriculture recently raised global crop predictions for corn, soy and wheat. Yet the World Bank indicates that over the last 10 reporting years the percentage of agricultural land worldwide has not changed. So, what is driving this world food production boom? Plants and crops are thriving on the extra carbon dioxide in the atmosphere. A recent study showed that climate modellers overestimated the amount of carbon dioxide that would remain in the atmosphere. Lo and behold, they have now discovered that plants are soaking up the additional carbon dioxide and growing more vigorously. Plants, trees and crops will absorb 130 billion tonnes more carbon dioxide this century than expected. It is called the carbon dioxide fertilisation effect. This is not just a benefit to food crops; it is a boon to native vegetation, from the ancient forests to desert scrub that environmental activists have been trying to preserve for decades.

And there is the latest science on how the oceans are absorbing carbon dioxide, with plankton growing faster than previously thought. So why is this government spending billions of dollars to reduce this airborne saviour of vegetation and food crops? I am stunned by the number of politicians who are either ignorant or wilfully misleading the public on this subject. A whole political industry has developed around new, arcane language to describe what we have known for centuries about producing food and improving our environment. A whole false economy has developed, fuelled by taxpayer funding through an Emissions Reduction Fund, an Emissions Trading scheme, Renewable Energy Targets, the Renewable Energy Agency, the Climate Change Authority, climate change departments and so on.
We are told that this bill also seeks to subsidise activities because they have so-called co-benefits. Well, if there are benefits in activities that also arguably help the environment, people should be doing them anyway, without massive taxpayer subsidies, just as landfill operators have been doing—and I commend them for doing so over the years. They have been capturing gas emissions from landfills, until the rent-seeking, carpetbagging, bootlegging crony capitalists jumped on the climate change bandwagon to suck money from the taxpayer. With the carbon tax, families felt and could clearly see for the first time the direct impact on their personal budgets from spending money to reduce carbon dioxide in the atmosphere. This Emissions Reduction Fund is no different, but by sleight of hand people will be less able to see how their taxes will need to stay higher than they should be in order to pay for this scheme. Taking money from low-income families and spending it on dodgy activities with a spurious scientific basis punishes the poor, rewards the rent-seekers and churns money in taxes, grants and rebates.

Australia cannot afford this Emissions Reduction Fund during what the government has told us is a budget emergency. While many families struggle with the cost of living, while mums and dads struggle to find jobs to make ends meet, the government spends their money appeasing high-income elites who are enthralled by this latest cause, championed by celebrities, self-promoting 'experts' and certain elements in the media. Rent-seekers, like wind tower companies and solar panel manufacturers, get paid handsomely, and advocates in the climate change industry are living very nicely off the system—flying around in private jets, irrespective of whether these schemes improve the environment or human living conditions. This is $2.5 billion of taxpayers' money to be spent on reducing carbon dioxide to stop so-called global warming while Arctic and Antarctic sea ice is growing—growing, not shrinking. It is bizarre.

I am dismayed that honest, intelligent people in this place can sit mute and watch this blatant trashing of both science and economics. I have a science background, but any high school student can tell you that carbon dioxide is not a pollutant. CO₂ in the atmosphere is not pollution. I know there are colleagues in this chamber who agree with me but feel they must toe a party line on this issue, but I, for one, am not so constrained and perhaps I speak for them also in saying that I will not sit mute and support this nonsense.

Minister Cormann told this place just two days ago: 'Coal is good. Coal is good. It is at the heart of our economic prosperity here in Australia and around the world. It has helped lift living standards for people right across the world. It will continue to help lift living standards around the world.' Minister, if colleagues in this place believe in all good conscience that this bill is wrong, then I urge them to speak up—don't be scientific girlie-men. I will oppose this bill.

Senator LAZARUS (Queensland—Leader of the Palmer United Party in the Senate) (20:31): As Leader of the Palmer United Party in the Senate, on behalf of my party and my colleagues Senators Lambie and Wang, I would like to confirm our support for the Carbon Farming Initiative Amendment Bill 2014 and also inform the Senate that we have circulated amendments to the bill to further improve and strengthen the intent, integrity and impact of this bill.

Palmer United is committed to a clean future, a future where we power our needs using clean, renewable energy. We only have one planet and we must do all we can to protect,
preserve and take care of it. It is for this reason that we have convinced the Abbott government not to dismantle the Climate Change Authority. The Climate Change Authority was established in 2012 to provide independent advice on the operation of Australian government climate change initiatives. Australia needs this authority to provide integrity and transparency around Australia's actions, efforts and results in relation to climate change—and, more broadly, our country's commitment to the appropriate management of our environment.

Importantly, we have also convinced the Abbott government to back down on their position concerning an emissions trading scheme. Thanks to the negotiating power of Palmer United, we have convinced the Abbott government to acknowledge the importance of and requirement for an ETS and, as such, have reached agreement with the Abbott government for an inquiry to be undertaken into an emissions trading scheme that is consistent with world's best practice and aligned with our key trading partners. The chairman of the Climate Change Authority, former Governor of the Reserve Bank of Australia Bernie Fraser, will head up the review. This is a significant step forward for Australia and will ensure our country moves down the path of installing a sustainable emissions trading scheme which supports all corners of our country and, importantly, all aspects of our economy.

It is the view of Palmer United that the Carbon Farming Initiative Amendment Bill will do many things for Australia. Firstly, the Carbon Farming Initiative will enable the ongoing viability of existing carbon farms and other projects across the country, which are relying on the ongoing support of carbon credits to continue operations. While we have removed the carbon tax, which has resulted in a reduction in cost of living for all Australians, we need to ensure that projects established to operate with the assistance of credits are properly supported. There are currently around 171 projects in this situation and 44 specifically in my home state of Queensland. These include landfill gas capture, savanna burning and environmental plantings projects. Secondly, the Carbon Farming initiative will provide an incentive based system to achieve a reduction in the generation of emissions across Australia. Thirdly, the initiative will provide certainty to Australian farmers, businesses and others, who deserve and need the support of our country to acknowledge and reward them for supporting our environment through improved and sustainable practices that reduce emissions.

Palmer United's amendments will ensure a regulatory body, the Emissions Reduction Assurance Committee, has the capacity and the power to appropriately manage the operations of the program. This power will include reviewing the methodology by which emissions are calculated and ceasing any methods which generate 'illegitimate' credits. Our amendments will also assist Indigenous Australians by extending the crediting period for savanna burning projects from seven to 25 years. Importantly, our amendments will also ensure emissions reduction projects align with sound environmental management practices. Finally, we have bolstered governance and transparency of the program by negotiating a provision that allows any member of the public to ask the Emissions Reduction Assurance Committee to conduct a review of any project involved in the initiative.

In summary, the Carbon Farming Initiative Amendment Bill, inclusive of the Palmer United amendments, is a good bill which delivers many benefits and should be supported.

Senator MADIGAN (Victoria) (20:36): Some people have accused me of hating the environment because of my opposition to wind farms—and I did vote for the repeal of the carbon tax. But, if we are not saving the environment for people, what is the purpose of
environmental changes? I care about salinity; I care about smarter ways to do things; I care about the use of natural gas in our country; and I do care about the protection and preservation of our natural assets.

The Carbon Farming Initiative Amendment Bill 2014 establishes the government's $2.55 billion Emissions Reduction Fund. It will replace the carbon tax and, hopefully, incentivise a host of new emissions-saving initiatives. The Emissions Reduction Fund achieves two objectives: it protects existing projects and it creates opportunities for new ones. There are currently 170 projects across the country, and, in my home state of Victoria, there are already 19 existing projects. These projects are doing the job that they set out to do—whether we like it or not—but they are relying on this $2.55 billion Emissions Reduction Fund in order to continue. These firms and their workers went into this venture and—whether we like it or not—we cannot just turn off the switch.

We have not had any meaningful policy since July of this year. If we do not have some sort of policy soon, people will lose their jobs and people will lose their investments. People have borrowed money against their homes to finance these businesses. More than 170 projects across Australia could ultimately fail, and that means more jobs that will be lost as a consequence. I just cannot accept this, and I do not want it on my conscience. I repeat: 170 projects across Australia could fail if this bill is not passed.

There are about 22,000 forestry workers in my home state of Victoria, and there are more than 70,000 forestry workers across Australia. Earlier today, I asked Mr Hunt what would be the impact on those workers? I honestly thought that the ALP cared about working Australians, and I thought that the ALP cared about working families. Frankly, I do not understand the hypocrisy; how many people in this place actually understand this bill? When you jump on the climate bandwagon and have a hissy fit, you ultimately miss the details; you miss the key points that can decide support or failure. How many people actually understand the importance of this bill to manufacturing and people's livelihoods? How many understand the importance of this bill to jobs and to money on the table for Australian families? How many understand the importance of this bill in helping families pay school fees and mortgages? Whether you like it or not, those are the facts that we are dealing with. For me, this is ultimately not about ideology, and it is not about numbers in a ledger; it is about people and it is about jobs, and I make no apology for that.

I am no fan of managed investment schemes. They consumed valuable farming land and they attracted some dodgy operators. Currently in many areas, MIS trees are being bulldozed and burnt. What a waste and what a failure! How dispiriting for adjoining farmers to live and work next to such agricultural destruction. All of this has distorted farmland values. MIS schemes pushed up land beyond the reach of farmers. This land will ultimately come back onto the market, and prices will drop; this drop will extend to cultivated land. The consequences could be grim, especially for those farmers who are in debt to the banks. The whole MIS episode has been a debacle and remains so. It is my hope the ERF will keep some of these trees in the ground. It is my hope the ERF will bring social, environmental and economic benefits. The ERF will welcome new entrants while supporting more businesses to do more projects.

The government tells business to innovate. The government itself must innovate, and, by so doing, it must take some risks. If the government does not provide leadership, what is the
point of having any government? Some would say, 'Let's just leave it to the market'. I say, 'What a furphy,' just like the LRET—another furphy. It is still dishing out renewable energy certificates to ineligible wind farm roters. These are the same wind farm roters ripping off electricity consumers.

The carbon tax was a money grab from big polluters who inevitably transferred the cost burden to the public. The carbon tax drove up electricity prices, which ultimately punished families, crippled Australian industry and cost jobs. I hope that this amendment will inspire innovation. I hope that it will encourage responsible behaviour. I hope that it will reward initiatives that result in tangible emissions reductions. This is a more positive, practical and sustainable environmental solution than the toxic carbon tax.

The ERF will promote energy efficiency in households and in retail and manufacturing businesses. The ERF will continue to support the capture of methane from landfills to contribute to the generation of baseload on demand electricity. It will capture the waste gas from coalmines. It will support projects that reduce transport based emissions. Hopefully, Direct Action will achieve the objectives of responsible and necessary emissions reductions. Taking up Direct Action will, hopefully, help clean up our environment. It will, hopefully, reduce energy costs. It will, hopefully, improve business outcomes for Australia's families, farmers and manufacturers.

I have listened to this debate, and I have heard many opinions. What I fear most is when fear is used to try to persuade and cajole people. I say that it is time to use leadership and vision. Do I think this bill is perfect? Nothing in this place is perfect. But, without a doubt, I hope that this bill is a step in the right direction.

Senator CORMANN (Western Australia—Minister for Finance) (20:43): On behalf of the government, I thank all senators for their participation in this debate. I thank Senator Xenophon, Senator Madigan, Senator Muir and all of the members of the Palmer United Party for their constructive engagement on the Carbon Farming Initiative Amendment Bill 2014. The government will be supporting a number of the amendments foreshadowed by Senator Xenophon and the Palmer United Party, which will strengthen this bill.

The bill will establish the Emissions Reduction Fund. The bill also streamlines the existing processes of the Carbon Farming Initiative, removing red tape while maintaining environmental integrity. The fund is a major environmental program and demonstrates the government's commitment to achieving a cleaner environment and reduced emissions in partnership with business and the community. The fund will provide positive incentives for Australian businesses, farmers and households to lower their energy use, improve productivity and reduce costs.

Our government has removed the carbon tax and has overseen the largest reduction in household electricity prices in decades. Through the Emissions Reduction Fund established by this bill the government will support Australian business, farmers and the community to enjoy the benefits of economic growth, increased productivity and a cleaner environment.

During the debate today a series of comments have been made. There was a complaint about the fact that this policy has not had any scrutiny. The truth is that this matter has had significant scrutiny over many, many years. In fact, the coalition have taken our direct action policy to two elections. This is one of the most scrutinised policies ever in the history of the
Commonwealth, and is only overtaken by the level of scrutiny on our policy to scrap the carbon tax. The thing that the Labor Party and the Greens still cannot get used to is that, on 7 September 2013, there was a thing called an election. Elections in Australia are the way that we settle policy disagreements, and the people of Australia have spoken. If the Labor Party and the Greens are concerned that they did not get 100 per cent of the policy we took to the last election, if they would have preferred to get 100 per cent of the direct action policy we took to the last election, then they should have voted for it. What we did, quite rationally and quite pragmatically, was to work, positively and constructively, with those senators in this chamber that were prepared to engage with the government in an effort to find common ground and to make judgements about progress on public policy in the national interest.

Senator Milne raised a question around the Clean Energy Finance Corporation and ARENA and what their status is. I can confirm that the government’s policy remains to abolish the Clean Energy Finance Corporation and ARENA. The Clean Energy Finance Corporation does not achieve a return for the budget, as has been erroneously asserted by some during this debate. People have failed to take into account the fact that the capital, which has been put into the Clean Energy Finance Corporation, is 100 per cent borrowed and that there is a cost of borrowings. And, of course, the Clean Energy Finance Corporation has been in place for a very short time and there is absolutely no capacity at all to reliably assess the commercial viability of that particular venture.

Senator Milne had various other complaints. I have to say that I find it difficult to take Senator Milne very seriously when it comes to matters related to the environment because Senator Milne, these days, is fighting really hard to ensure that we have regular cuts in the tax on fuel. Senator Milne’s mission in life, these days, is to stand up for those that want to see regular reductions in the real value of the excise on fuel. Senator Milne is standing up for big oil companies and wants to make sure that big oil companies get a windfall from her opposition to our efforts to ensure that the tax on fuel is not eroded by inflation, as it has been over the last 13 years.

There have been various other comments made. Let me make a general point. When Labor and the Greens are complaining about a deal and about the fact that we have reached an agreement with senators on the crossbench, who were prepared to engage positively and constructively with the government, they were really whingeing and complaining from the sidelines about the public policy debate in Australia. They have made themselves completely irrelevant. I said earlier in Senate question time that Senator Milne has led the Greens from the wilderness to the political desert of oblivion. I know that there are people out there in the Greens that are backgrounding exactly that point to journalists in the press gallery. There is one particular Greens member in the House of Representatives—and there are not that many of in the House of Representatives that could fall into that category—who is out there suggesting that he could take the Greens back to greener pastures. I guess these matters will resolve themselves in the fullness of time.

I thought I should quickly comment in relation to an observation made by Senator Day. Senator Day is quite right, I did say the other day that coal is good. Coal is good for humanity. Coal is central to our economic prosperity today because of what it has contributed in the past, and it will be central to our prosperity in Australia and to the prosperity of people around
the world in years to come. That does not mean that we should not make serious efforts—
(Quorum formed)

I thank Senator Singh for calling that quorum. She was clearly very keen to ensure that I had a bigger audience for the pearls of wisdom I was sharing with the chamber.

I say it again: coal is good for humanity. Coal has been central to our economic prosperity. We owe much of our quality of life here in Australia today to the contribution coal has made to our economic development in the past—and it will continue to contribute in the future, both here in Australia and around the world. That does not mean that we should not make every effort to reduce emissions in a direct, sensible, effective way—in a way that is economically responsible and environmentally effective. That is exactly what the coalition's Direct Action Plan, which we have taken to the last two elections, will do. Having responded to Senator's Day's observation, I commend the bill to the Senate.

The PRESIDENT: The question is that the amendment moved by Senator Singh on sheet 7551 be agreed to.

The Senate divided. [20:57]

(The President—Senator Parry)

Ayes .................27
Noes .................33
Majority ............6

AYES

Bilyk, CL (teller)  Bullock, J.W.
Cameron, DN  Collins, JMA
Conroy, SM  Dastyari, S
Di Natale, R  Faulkner, J
Gallacher, AM  Hanson-Young, SC
Ketter, CR  Lines, S
Ludlam, S  Marshall, GM
McEwen, A  McLucas, J
Moline, C  Moore, CM
O'Neill, DM  Rhiannon, L
Rice, J  Siewert, R
Singh, LM  Urquhart, AE
Whish-Wilson, PS  Wong, P
Wright, PL

NOES

Abetz, E  Bernardi, C
Birmingham, SJ  Bushby, DC (teller)
Canavan, M.J.  Cash, MC
Colbeck, R  Cormann, M
Day, R.J.  Edwards, S
Fawcett, DJ  Fifield, MP
Heffernan, W  Johnston, D
Lambie, J  Lazarus, GP
Leyonhjelm, DE  Macdonald, ID
Madigan, JJ  Mason, B
McKenzie, B  Muir, R

CHAMBER
Question negatived.

**Senator MILNE** (Tasmania—Leader of the Australian Greens) (20:59): I move the Australian Greens amendment on sheet 7611, as foreshadowed in my speech during the second reading debate:

At the end of the motion, add "but the Senate:

(a) notes that if we continue without change Australia will use its entire 2050 emissions budget within sixteen years and the world will warm by at least 4 degrees by 2100, destroying Australia's Great Barrier Reef, agricultural industries and creating massive vulnerabilities in public health and national security; and

(b) is of the opinion that there is no time to waste on an ineffective, expensive 'direct action' policy that allows unlimited pollution, will hurt our global competitiveness and will give taxpayers' money to the biggest polluters with no guarantee of emissions reductions".

The **PRESIDENT**: The question is that the amendment moved by Senator Milne be agreed to.

The Senate divided. [21:01]

(The President—Senator Parry)

Ayes ................. 27
Noes ................. 33
Majority ............. 6

**AYES**

Bilyk, CL (teller) Bullock, J.W.
Cameron, DN Collins, JMA
Conroy, SM Dastyari, S
Di Natale, R Faulkner, J
Gallacher, AM Hanson-Young, SC
Ketter, CR Lines, S
Ludlam, S Marshall, GM
McEwen, A McLucas, J
Milne, C Moore, CM
Thursday, 30 October 2014

The question now is that the bill be read a second time. The Senate divided. [21:04]

(The President—Senator Parry)

Ayes .................31
Noes .................29
Majority .............2

AYES

Abetz, E              Bernardi, C
Birmingham, SJ        Bushby, DC (teller)
Canavan, M.J.        Cash, MC
Colbeck, R            Cormann, M
Day, R.J.             Edwards, S
Fawcett, DJ           Fifield, MP
Heffernan, W          Johnston, D
Lambie, J             Lazarus, GP
Leyonhjelm, DE        Macdonald, ID
Madigan, JJ           Mason, B
McKenzie, B           Muir, R
Nash, F               O'Sullivan, B
Parry, S              Payne, MA
Ronaldson, M          Ruston, A
Seselja, Z            Sinodinos, A
Wang, Z               Williams, JR
Xenophon, N

Question negatived.

The PRESIDENT (21:02): The question now is that the bill be read a second time.
The Senate divided. [21:04]

(The President—Senator Parry)

Ayes .................31
Noes .................29
Majority .............2

AYES

Abetz, E              Bernardi, C
Birmingham, SJ        Bushby, DC (teller)
Canavan, M.J.        Cash, MC

CHAMBER
AYES

Colbeck, R
Edwards, S
Fifield, MP
Johnston, D
Lazarus, GP
Madigan, JJ
McKenzie, B
Nash, F
Parry, S
Ronaldson, M
Seselja, Z
Wang, Z
Xenophon, N

Cormann, M
Fawcett, DJ
Heffernan, W
Lambie, J
Macdonald, ID
Mason, B
Muir, R
O’Sullivan, B
Payne, MA
Ruston, A
Sinodinos, A
Williams, JR

NOES

Bilyk, CL (teller)
Cameron, DN
Conroy, SM
Day, R.J.
Faulkner, J
Hanson-Young, SC
Leyonhjelm, DE
Ludlam, S
McEwen, A
Milne, C
O’Neill, DM
Rice, J
Singh, LM
Whish-Wilson, PS
Wright, PL

Bullock, J.W.
Collins, JMA
Dastyari, S
Di Natale, R
Gallacher, AM
Ketter, CR
Lines, S
Marshall, GM
McLucas, J
Moore, CM
Rhiannon, L
Siewert, R
Urquhart, AE
Wong, P

PAIRS

Back, CJ
Brandis, GH
Fierravanti-Wells, C
McGrath, J
Reynolds, L
Ryan, SM
Scullion, NG
Smith, D

Carr, KJ
Waters, LJ
Peris, N
Polley, H
Ludwig, JW
Sterle, G
Brown, CL
Lundy, KA

Question agreed to.
Bill read a second time.

In Committee

Bill—by leave—taken as a whole.

The CHAIRMAN: The question is that the bill stand as printed.
Senator CORMANN (Western Australia—Minister for Finance) (21:06): I table a supplementary explanatory memorandum relating to the government amendments to be moved to this bill and seek leave to move the government amendments (1) to (7) together. Leave not granted.

Senator CORMANN: I move amendments—

The CHAIRMAN: One at a time.

Senator CORMANN: (5), (6) and (7) on sheet HV130 as minor technical amendments which will ensure the smooth and efficient implementation of the Emissions Reduction Fund. The amendments ensure consultation processes are not duplicated, while, at the same time, maintaining the important role of the Emissions Reduction Assurance Committee to undertake an assessment of the emissions reduction methods. The amendments will allow projects to go in quickly and participate in the Emissions Reduction Fund.

The CHAIRMAN: Before I put that, Senator Milne was on her feet. On a point of order, Senator Milne?

Senator MILNE (Tasmania—Leader of the Australian Greens) (21:08): No. I am seeking to ask some general questions before we go into specific amendments.

The CHAIRMAN: Can you take me to which amendment you moved, Minister.

Senator CORMANN (Western Australia—Minister for Finance) (21:08): Amendment (5).

The CHAIRMAN: I am not clear which amendment you are talking about.

Senator CORMANN: It would have been helpful to move amendments (1) to (7) on sheet HV130 together to assist the chamber; however, given that leave was not granted, I move government amendment (5) on sheet HV130:

(5) Schedule 1, item 393, page 105 (after line 17), after paragraph (1)(a), insert:

(aa) the Committee or the Department published on the Department’s website:

(i) a draft of the methodology determination; and

(ii) a notice inviting the public to make a submission on the draft by a specified time limit (being a time limit of at least 14 days after the notice is published); and

(ab) the Committee considered any submissions that were received within that time limit; and

This is as a minor technical amendment which is part of a series of amendments which will help ensure the smooth and efficient implementation of the Emissions Reduction Fund.

Senator XENOPHON (South Australia) (21:09): Chairman, can I get clarification from you. Because of the haste in which—and it is not a criticism of you, of course—we have proceeded, I have a number of questions for the committee as a whole on some preliminary matters. I believe Senator Milne may have some preliminary questions to raise. I wonder whether we could deal with those before we deal with the amendments, because that may have some bearing on the consideration of the amendments. Would the minister be prepared to facilitate that?

The CHAIRMAN: If the minister wishes to indulge the chamber, otherwise we will deal with amendment (5). But before I call on other amendments to be moved, we will deal with some general questions. Let us deal with amendment (5) first.
Senator Cormann interjecting—

The CHAIRMAN: The question is that government amendment (5) on sheet HV130 be agreed to.

The committee divided. [21:14]

(Chairman—Senator Marshall)

Ayes ..................... 33
Noes .......................... 27
Majority ..................... 6

AYES

Abetz, E  Bernardi, C
Birmingham, SJ  Bushby, DC
Canavan, M.J.  Cash, MC
Colbeck, R  Cormann, M
Day, R.J.  Edwards, S
Fawcett, DJ (teller)  Fifield, MP
Heffernan, W  Johnston, D
Lambie, J  Lazarus, GP
Leyonhjelm, DE  Macdonald, ID
Madigan, JJ  Mason, B
McKenzie, B  Muir, R
Nash, F  O’Sullivan, B
Parry, S  Payne, MA
Ronaldson, M  Ruston, A
Seselja, Z  Sinodinos, A
Wang, Z  Williams, JR
Xenophon, N

NOES

Bullock, J.W.  Cameron, DN
Collins, JMA  Conroy, SM
Dastyari, S  Di Natale, R
Faulkner, J  Gallagher, AM
Hanson-Young, SC  Ketter, CR
Lies, S  Ludlam, S
Marshall, GM  McEwen, A (teller)
Mclucas, J  Milne, C
Moore, CM  O’Neill, DM
Rhiannon, L  Rice, J
Siewert, R  Singh, LM
Sterle, G  Urquhart, AE
Whish-Wilson, PS  Wong, P
Wright, PL

PAIRS

Back, CJ  Carr, KJ
Brandis, GH  Bilyk, CL
Fierravanti-Wells, C  Peris, N
McGrath, J  Waters, LJ
Reynolds, L  Ludwig, JW
Thursday, 30 October 2014

SENATE

8427

PAIRS

Ryan, SM                                  Polley, H
Scullion, NG                               Brown, CL
Smith, D                                   Lundy, KA

Question agreed to.

Senator MILNE (Tasmania—Leader of the Australian Greens) (21:18): I did ask Senator Cormann to respond and he only gave half an answer in his summing-up of the second reading. The government has said that its intention is to abolish the Clean Energy Finance Corporation and the Australian Renewable Energy Agency, but it has been reported in the deal between the Palmer United Party and the government that the Palmer United Party has agreed that the abolition legislation can be brought on after 31 December this year. I was seeking clarity from the minister or the Palmer United Party: what is the deal in relation to the Clean Energy Finance Corporation and the Australian Renewable Energy Agency?

In relation to another matter, and this is quite important for later developments, the bill leaves the definition of ‘prescribed eligible carbon unit,’ in section 3, untouched, including the classification:

It is immaterial whether the unit was created in or outside Australia.

My understanding of that is that all the minister has to do is to prescribe CERs as an eligible unit and the government can then spend any amount of the Emissions Reduction Fund on foreign permits. I am interested to know whether the government has intentionally given itself the power to purchase as many emissions as it wants to from overseas, despite the public statements.

The second question is: would a big polluter, under the baseline system, be able to buy cheap international permits if the minister prescribed CERs?

Senator CORMANN (Western Australia—Minister for Finance) (21:20): My answer in relation to the Clean Energy Finance Corporation and the Australian Renewable Energy Agency was very clear. The government’s position is that we are committed to the abolition. But we have also been very clear that, in the remaining weeks that we have in terms of sitting weeks before Christmas, our priority is to deal with a series of high priority and outstanding budget measures. We do not anticipate that legislation in relation to the abolition of the Clean Energy Finance Corporation will come back before this chamber before the end of the year. In fact, we do not intend to bring it back given the time available and given that there are higher priorities before Christmas. So we will pursue that ongoing commitment, which remains, to abolish both the Clean Energy Finance Corporation and ARENA early in the New Year. But when it comes to this proposition that, somehow, there is a sneaky conspiracy theory about trying to introduce international permits through the backdoor, there is absolutely no way. The Australian government is committed to achieving emissions reductions here in Australia through domestic efforts incentivised by our direct action policy and the Emissions Reduction Fund.

The provisions that Senator Milne was referring to relate to an amendment foreshadowed by Senator Xenophon. It is not initiated by the government. In order to give effect to what Senator Milne is suggesting, the government would have to regulate that way and we have been absolutely crystal clear that the government has absolutely no intention whatsoever of
regulating that way. We will, as we have been very clear, remain totally focused on pursuing emissions reductions through this legislation and through the policy framework more generally—domestically here in Australia and not by using international permits.

Senator MILNE (Tasmania—Leader of the Australian Greens) (21:22): I thank the minister for that clarification. I understand from that that even though the existing act does say that the prescribed eligible carbon unit means a prescribed unit that is issued under a scheme relating to either or both of the following, the second one being the avoidance of emissions of one or more greenhouse gases, it is immaterial whether a unit was issued in or outside Australia. I take it from your answer that the regulations accompanying this bill are going to specifically say that they cannot be sought from outside Australia. If that is not correct, then I will ask the minister to clarify.

On the second point, I have just heard the minister say that, as far as the government is concerned, the Clean Energy Finance Corporation and the Australian Renewable Energy Agency are still up to be abolished and that it will not reintroduce the legislation to abolish them before the end of the year but could well do it early in the new year. So I ask about the status of this agreement between the government and the Palmer United Party, where the Palmer United Party is saying that it has saved the Clean Energy Finance Corporation and ARENA. You are saying there is no such agreement and you intend to move on the abolition legislation in the new year. So, perhaps someone from the Palmer United Party could clarify the understanding of this agreement that you have supposedly reached.

Senator CORMANN (Western Australia—Minister for Finance) (21:24): I could not have been more explicit: the government remains committed to the abolition of the Clean Energy Finance Corporation and ARENA for the reasons that have been well and truly articulated over many, many hours of debate in the past and for some time. We do intend to revisit that legislation early in the new year. In relation to the passages that Senator Milne referred to in the actual bill, let me also, again, say emphatically that the government will not make any regulations to facilitate or allow the trading in international permits. One hundred per cent of our emissions reduction effort through this legislation will be a domestic effort. It will exclusively be a domestic effort. We will not be providing, in regulations, for the capacity to trade permits internationally.

Senator MILNE (Tasmania—Leader of the Australian Greens) (21:25): One other thing: in the agreement with the Palmer United Party there is an agreement for the Climate Change Authority to do a review. That is not foreshadowed anywhere by way of amendment to the Climate Change Authority Act. So I am asking whether it is the intention of the government to put that into legislation. Is there anything in this bill or the Climate Change Authority Act that guarantees that this review will actually be carried out? And under section 57 of the Climate Change Authority Act the minister can issue directions to the authority. Will the government be actually issuing those directions under section 57 of the act? Or where in the Climate Change Authority Act will that be? Why don’t we have any amendments in relation to that act to give effect to this supposed undertaking that has been made?

Senator CORMANN (Western Australia—Minister for Finance) (21:26): Senator Milne actually provided the answer to her own question in the second half of her contribution. There is already provision in relevant legislation for the minister to be able to give a direction to the Climate Change Authority. The government has publicly stated unambiguously that we will
be giving that direction. There is no need for further amendments to the legislation in those circumstances.

Senator SINGH (Tasmania) (21:26): According to the minister this morning, Direct Action does not target big business polluters. He described Direct Action as:

… incentives on a competitive basis for groups such as Indigenous land management groups, farmers, families, small businesses.

So apparently Direct Action targets families and ignores the major polluters—

Senator Cormann: I never said that; what do you mean?

Senator SINGH: according to Minister Hunt. So, on that account, my question is in relation to Clive Palmer, who you have done the deal with in relation to this policy. I want to know whether Clive Palmer might stand to yield more from this deal on direct action than just simply an inquiry into an emissions trading scheme. I understand that today in question time the Prime Minister was unable to rule out whether Mr Palmer's companies would receive any taxpayer dollars under direct action—the $2.55 billion that is part of the Emissions Reduction Fund. We know that Mr Palmer's Queensland nickel refinery, which is one of Australia's biggest polluters, may be eligible for a grant under the ERF to reduce its carbon pollution. I would like to know whether Clive Palmer, the member for Fairfax, is eligible for a grant under the ERF.

Senator CORMANN (Western Australia—Minister for Finance) (21:28): Firstly, let me just confirm what Senator Singh—sort of, not very eloquently but nevertheless—sought to quote from earlier today. Senator Singh, you are quite right: rather than impose a punitive damaging carbon tax, we are providing positive incentives to businesses and individuals across Australia to come up with the best possible ways of reducing emissions. And we are doing it through positive incentives. We are doing it through a genuine market based system. Through a market based open tender system we are inviting businesses across Australia to deploy all their—

Senator Dastyari: Oh come on, Mathias; not even you believe this.

The CHAIRMAN: Order!

Senator CORMANN: creative energy to the come up with the best possible opportunities for emissions reductions and the best-value opportunities for emissions reductions. And of course that is what our market based system is all about—positive incentives to achieve emissions.

Senator Dastyari: Is this your market based solution?

The CHAIRMAN: Order!

Senator CORMANN: Senator Singh then wants to go into a political argument targeting one particular member of the Australian parliament. Let me just make a general point here to put some context around this debate, because these issues have—

Senator Dastyari interjecting—

The CHAIRMAN: Senator Cormann, could you please resume your seat. I must draw to the attention of senators that when they are not sitting in their places they have no entitlement to interject. Interjections are disorderly in any case, but I would certainly ask senators who are not in their place to not contribute.
Senator Ian Macdonald: Throw him out.

The CHAIRMAN: That also includes you, Senator Macdonald. You are not in your place.

Senator CORMANN: I will make a general point that seems to be forgotten by the Labor Party and the Greens from time to time when they are pursuing political attacks on individuals. That is that when we make laws in this place, we make these laws for all Australians, and we are all equal under the law. All of us are income taxpayers, yet we make judgements in relation to income tax arrangements. All of us are in varying superannuation arrangements. We make laws in relation to superannuation arrangements that apply to us and to people across Australia.

The proposition that you are not allowed to exercise your rights and responsibilities as an elected member of parliament in this chamber because something might potentially have an impact on you in an adverse way or in a beneficial way is fundamentally undemocratic. The implication of the question that Senator Singh just put is that, because we are considering a law that applies equally to everyone, an individual member is not allowed to participate in the public policy debate in relation to these matters if they might be impacted in a different way by that law due to their individual circumstances. That is fundamentally undemocratic. That is a fundamentally flawed argument. I know that it serves the base political objectives of a Labor Party under the leadership of Bill Shorten. But that is not an appropriate public policy argument to make. That is essentially all I have to say in relation to these matters.

Senator SINGH (Tasmania) (21:24): Minister, you have not answered the question. I will put another question. But, firstly, it was not an eloquent answer in itself to my question. It was not an answer in itself at all. My question was very specific. It was in relation to the member for Fairfax and his nickel refinery in Queensland, which is one of Australia's biggest polluters, and whether that would be eligible for a grant under the ERF. What you termed as an answer was to say that me asking that question was 'fundamentally undemocratic'. They were your words. It was for reasons of democracy that I asked the question because the member for Fairfax has just done a deal with the government for $2.55 billion of taxpayer's money, which he may—and I am giving you the option to rule out whether this is correct or not—be eligible to apply for part of in a grant for his own business establishment, the Queensland Nickel refinery, which is one of Australia's biggest polluters. That is the question that I was asking. The Prime Minister refused to rule it out and you have now refused to rule it out.

The fact that you are refusing to rule it out raises suspicion as to whether he is eligible to apply. You have done the dirty deal with him. As someone who wanted to bring an amendment to another bill in this place for an emissions trading scheme, he has sold out. To agree with the member for Fairfax's request, that has now been reduced to a review of an emissions trading scheme, which the minister for the environment himself has called 'just a gesture', in order to get your $2.55 billion deal through the parliament. So I think it was incredibly democratic—not fundamentally undemocratic—for the people of Australia to know whether or not the $2.55 billion deal that you have done with the member for Fairfax is democratic and whether or not there is something within that deal that benefits the member for Fairfax in relation to his Queensland Nickel refinery. So would you like to answer the question, minister?
Senator CORMANN (Western Australia—Minister for Finance) (21:35): I am very happy to answer the question. What I might point out to Senator Singh is that under the Gillard government's Labor-Greens carbon tax Queensland Nickel was given $11.6 million in 2013-14, and I might just say—

An opposition senator: He was not the member for Fairfax then.

Senator CORMANN: So, once you are a member of parliament, all of a sudden, everything changes. So, the Labor Party and the Greens can provide $11.6 million to Queensland Nickel.

Senator Singh: Of course it matters.

Senator CORMANN: That is interesting. Now, the truth is that Mr Palmer addressed this question in his press conference yesterday, and if you have got questions in relation to these matters, these are actually not questions for the government and the parliament. The parliament legislates for all Australians equally. That is the way the system works, and if you have got any further questions you should address them to him.

Senator Ian Macdonald: I rise on a point of order. Mr Chairman, I did not want to interrupt the questioner and the minister answering, but I refer you to standing order 193(3) where all imputations of improper motives are considered highly disorderly. Far be it from me to defend Mr Palmer after that outrageous committee set-up into Queensland, but, in fairness, I would ask, if Senator Singh is going to continue along this line of questioning, that you take into account reflections of improper motives which are clearly the course of Senator Singh's questions.

The CHAIRMAN: I was listening carefully and I do not think Senator Singh has breached that standing order.

Senator XENOPHON (South Australia) (21:36): I note that the feedback that I have received in relation to the creation of a strategic reserve of international emissions units has been very positive. Indeed, Innes Willox from the Australian Industry Group has been a strong supporter of that—the AiG has been a strong supporter of that. Can the minister explain why the government is taking such a position as to not support the creation of a strategic reserve, despite the fact that leading members of the business community in this country say that a strategic reserve such as this will make a very real difference in ensuring compliance, ensuring targets and indeed ensuring that Australia can reach higher targets, depending on what is agreed in Paris next year?

Senator CORMANN (Western Australia—Minister for Finance) (21:37): Firstly, it has consistently been our policy for a number of years now, and the reason for the policy is that we want to employ those resources to maximum effect here in Australia. We do not want to send money overseas. We want to ensure that we deploy those resources to maximum effect when it comes to achieving emissions reductions domestically here in Australia. That is a policy judgement that we have made. I understand, Senator Xenophon, that you take a different view. You might be quite happy to send these resources overseas, but, from an Australian government point of view, we have made a deliberate judgement that we are not prepared to do that and that we want to focus, quite deliberately, on investing all of those resources—100 per cent—exclusively here in Australia to achieve domestic emissions reductions here in Australia.
Senator XENOPHON (South Australia) (21:38): Has the government done any modelling on the benefits of a strategic reserve? And, before the minister answers that: I will not be misrepresented in respect of my position. If the policy intent of this legislation is to maximise emissions reductions then having a small amount of emissions reductions—I suggested a maximum of 20 per cent of this fund—for international emissions reduction units would have seemed to be good economic and environmental sense. But has there been any modelling done in respect of this?

Senator CORMANN (Western Australia—Minister for Finance) (21:39): No, we have not modelled this, because it is not our policy. Our policy is to deploy 100 per cent of our resources, in relation to this, here in Australia. Senator Xenophon, again, I appreciate that you have a different view, and we might just have to agree to disagree. I understand that your view might be that up to 20 per cent of those resources should be available to be allocated overseas. The Australian government has made a judgement—a considered and deliberate judgement—to deploy 100 per cent of our resources here in Australia in order to achieve the maximum emissions reductions available through our market based mechanism here in Australia.

Senator XENOPHON (South Australia) (21:39): Finally on this: does the minister acknowledge that the creation of such a strategic reserve could well reduce the pressure on facilities that will be subject to baselines under the safeguard mechanism if the safeguard mechanism is passed?

Senator CORMANN (Western Australia—Minister for Finance) (21:40): That is not the judgement of the government. The government has made a deliberate judgement that we ought to deploy 100 per cent of the resources available through this initiative here in Australia.

Senator MILNE (Tasmania—Leader of the Australian Greens) (21:40): In the light of the minister's remarks that the entire abatement is going to occur in Australia, and that only $2.5 billion has been allocated—as I understand it, only $1.15 billion out to 2017—is it still the government's position that, if the five per cent is not achieved with the current allocation, as the Prime Minister has said, there will be no more money made available, and that will be it, regardless of whether the five per cent target has been reached or not?

Senator CORMANN (Western Australia—Minister for Finance) (21:41): As we have said many, many times, we are very confident that we will achieve the five per cent emissions reduction target. We have, of course, announced some time ago a policy, which this legislation is now giving practical effect to, which is fully funded, which is capped, and which is more effective than the system that the Labor-Greens government of the past pursued.

Senator MILNE (Tasmania—Leader of the Australian Greens) (21:41): I just want to follow up on that. When you answered Senator Xenophon a moment ago, you said you had not modelled the proposition that he was making about a strategic reserve fund because it was not your policy. I asked you today in question time, and you didn't answer, and I will ask you again: have you modelled your own policy? Have you modelled this policy to determine whether it can achieve a five per cent emissions reduction? If so, who did the modelling? When was it done? And will you release it, given that RepuTex has said that you can only achieve 20 to 30 per cent of the five per cent with this policy, and Sinclair Knight has said
you will not go anywhere near it? So there are two sets of modelling on your policy; have you actually done any?

Senator CORMANN (Western Australia—Minister for Finance) (21:42): We are very confident, as I said in question time very explicitly again today, that we will meet the five per cent emissions reduction target, and I would point out again what I said in question time today: Australia actually, for a very long time, has had an exceptionally good track record in meeting its emissions reduction target, unlike some of the more vocal countries in other parts of the world that are part of the agenda that Senator Milne is trying to propagate. I will also say again that, given her position of fighting for regular reductions in the real value of the tax on fuel, she really has no credibility coming into this chamber with these sorts of arguments. Senator Milne is fighting not only to ensure that there are regular reductions in the real value of the excise on fuel; she is also fighting for a windfall for big oil companies. The final point I would make is that the reason that we have not modelled the possibility of sourcing permits internationally is that we made a deliberate policy decision to deploy 100 per cent of our own resources domestically here in Australia, to maximise emissions reductions and the emissions reduction effort domestically, here in Australia.

Senator SINGH (Tasmania) (21:44): I do have a question in relation to ARENA, but I will first address some of the issues that the minister has just raised. He says the government is very confident in reaching its target of a five per cent reduction by 2020 on this dud policy called direct action and that it is fully funded. You make those statements, as you say, based on no modelling and with no reserve fund. How can you make that statement? On what basis do you make that statement? There is no scientist and no economist that has given credence to your remarks on making that statement. You are either misleading this chamber by saying that Australia will reach its target of five per cent of reductions by 2020, based on direct action's policy of spending $2.55 billion of taxpayers' money, or you are misleading this parliament. It simply does not add up.

You also say that Australia has had a good track record of emissions reductions, but that has not been under your government. I made it very clear in my second reading contribution that according to the 2014 Global Green Economy Index, since the change of government, our performance now lags behind developing nations—not developed nations, but developing nations—such as Kenya, Zambia, Ethiopian and Rwanda. We are behind those developing nations. We have fallen sharply this year, coming last out of 60 countries for performance on political leadership and climate change and 37th overall, when in 2012 Australia came second out of 27 countries for political leadership and 10th overall for its green economic performance.

You are either misleading this parliament or you need to provide this chamber with where you are sourcing your data from when you say that you as a government are very confident of meeting this target, because no-one that I am aware of is backing you on your statement on that. It would be good to get an answer on that, but I would also just like to ask you for clarification in relation to your deal with the member for Fairfax and the Palmer United Party. Did you give a guarantee that ARENA will be saved and not abolished as part of that deal?

Senator CORMANN (Western Australia—Minister for Finance) (21:47): Let me just make one point very clear, again: Australia met its Kyoto emissions reduction target without a carbon tax. We were on track to meet and exceed the Kyoto emissions reduction targets...
during the period of the Howard government. Of course, the emissions reduction period happened to fall; it was the period from 2008 onwards. Guess what? That was after the long period of 11½ years of a coalition government with outstanding Ministers for the Environment such as former Senator Robert Hill, former Senator Ian Campbell and, my good friend and valued colleague, Malcolm Turnbull. Australia was absolutely on track then and in the subsequent period. It was evident that we did meet and exceed the Kyoto targets. That was without a carbon tax.

Senator Singh talks about modelling. I remember Labor's modelling in relation to the carbon tax, because I was chairing a number of Senate committees inquiring into the carbon tax. That is the carbon tax we were promised we would never get: There will be no carbon tax under the government I lead.

Senator Singh is going to say that I am really relitigating the previous election campaign. That is right, because she is relitigating the previous election campaign: she does not accept the fact that the people of Australia have voted against Labor's failed carbon tax experiment.

The Labor Party modelling into their carbon tax showed that emissions in Australia were expected to increase, despite the carbon tax, from 560 million tonnes in 2010 to about 637 million tonnes in 2020. It was also showing that our economy would grow more slowly. In fact, by 2050, our economy was expected to grow more slowly to the tune of $1 trillion in 2011 dollars. That was nearly the whole GDP of the whole of Australia in order to pay for the Labor-Greens carbon tax. If you look to the effect of the Labor-Greens carbon tax according to Labor's own modelling, it was actually forcing everyone right across Australia to work for free for nearly a whole year in order to pay for the economic impact of Labor's carbon tax.

If you want to talk about modelling, your modelling certainly showed what a dog of a tax your carbon tax was. Everybody across Australia knows that Labor's carbon tax was an absolute failure. Emissions were going to continue to rise, the economy was going to grow significantly more slowly and real wages were going to be lower and reduce over time as a result of Labor's carbon tax. Labor was never quite open, honest and upfront about these things; but it is just important that I just remind people as questions about modelling are asked.

Now, the government's direct action plan will reduce Australia's domestic emissions by five per cent below 2000 levels by 2020. The good news is the government believes that Australia's abatement task under direct action is actually now going to be easier to achieve than previously thought. Australia's abatement task is now around 421 million tonnes to 2020 rather than around 755 million tonnes assumed in the 2005 projections. The fall is largely as a result of changes in the economy. It saddens me to say the part of the reason why the abatement challenges going to be easier to meet is because after six years of Labor, the economy was growing below trend. We inherited a weakening economy and rising unemployment. That is what we inherited.

If you want to reduce emissions, you can do it the Labor-Greens way and strangle the economy and get the economy to grow more slowly. That is a way that you can reduce emissions. That is not our way. That was Labor-Greens way. Our way to reduce emissions is to it in a way that is economically sensible; that will facilitate stronger growth, not less growth; and that looks after the environment at the same time as looking after the economy.
and looking after opportunities for people across Australia to get ahead. That is our approach to this area of policy.

Senator SINGH (Tasmania) (21:51): I am pleased that the minister has said that Mr Turnbull is a good friend of his, because in saying that he would, I am sure, be very familiar with the opinion piece that Mr Turnbull published on 7 December 2009. I do not actually know whether I am entitled to say this in the chamber, but the title was 'Abbott's climate change policy is bullshit'.

The CHAIRMAN: I would prefer you did not say it, thank you, Senator Singh.

Senator SINGH: That was the title of the article, Chair, so I am just reiterating the title, but I will not repeat it. In that article—and I am sure that Senator Cormann will be very familiar with it, because he is a good friend of Mr Turnbull's—Mr Turnbull said:

It is not possible to criticise the new Coalition policy on climate change because it does not exist. Mr Abbott apparently knows what he is against but not what he is for.

... ... ...

The Liberal Party is currently led by people whose conviction on climate change is that it is "crap" and you don't need to do anything about it. Any policy that is announced will simply be a con, an environmental figleaf to cover a determination to do nothing.

Here Senator Cormann is finding himself in the position of having to defend a policy that his good friend Mr Turnbull knows is a con. And I have to say you are doing a pretty good job at it, Senator Cormann. However, through our time in this place we know that it wears pretty thin when you revert back to type, to the mantra, rather than answering the questions that senators in this place are actually asking you—specifically, about the bill before us, which, I have to agree with Mr Turnbull, is very much a dud or a con.

The government's latest estimates of Australia's future greenhouse gas emissions in its ERF white paper are that, on current trends, Australia faces a cumulative emissions reduction task of 591 million tonnes of carbon dioxide equivalents in the period to 2020. So after taking into account updated emissions data for 2013 and 2014, the cumulative emissions reduction task is around 420 million tonnes in the period to 2020. On the basis of the money available and the emissions required, I calculate that the $1.15 billion in the ERF in the budget papers could purchase 421 million tonnes at about $2.75 per tonne. Or, if you were to spend the entire $2.55 billion, it would cost around $6 per tonne or lower for the next four years to reach Australia's target—a target you are very confident we will meet. So can you tell me which projects could afford to bid in the CFI on this basis?

Senator CORMANN (Western Australia—Minister for Finance) (21:55): I am really quite disappointed that the modern Labor Party under Mr Shorten's leadership is so pessimistic about the ingenuity, creativity and energy of the Australian people. We happen to believe that things do not stand still. We do not happen to believe that there is such a thing as a status quo, and we believe that you provide incentives to people. The Labor Party understands all about penalising people and going after people because they have been too successful. We actually believe in providing positive incentives and encouraging people to deploy all of their creative juices and all of their creative energy to doing things better, more cheaply and more efficiently to achieve better outcomes with fewer resources. We are extremely confident that the Australian people and the businesses across Australia will rise to the challenge and that the investment that we are proposing to make through this market...
based mechanism will absolutely ensure that we will be able to achieve the five per cent
domestic emissions reduction target by 2020.

Senator MILNE (Tasmania—Leader of the Australian Greens) (21:56): What we have
heard from the minister is that the only basis that he can provide for a claim that we will
achieve a five per cent emissions reduction target, as pathetic as that is, is that he is 'extremely
confident'. And he is the finance minister for this nation? What we have just heard is voodoo
economics. Just because the finance minister is confident does not mean that anybody actually
thinks that that is going to happen. In fact, there are more of us who think that some men just
want to watch the world burn, and I would suggest that we are dealing with one of them here
this evening.

I wanted to follow on from Senator Singh in relation to the costs. We had many Senate
inquiries, and we had lots of evidence from people who are already involved in Carbon
Farming Initiative projects. They have said that they need a price of at least $15, if not more,
a tonne in order to be viable with those projects. The Carbon Farming Initiative, as I see it
here under the Emissions Reduction Fund, is not going to go anywhere near that. What
evidence do you have that you are going to pay a reasonable price to these Carbon Farming
Initiative existing projects such that they can remain viable? Secondly, for new proponents,
one of the issues is the costs of participating. One of the requests that has been made relates to
how there are going to be mechanisms to help individual farmers or groups to aggregate so
that they can actually bid in once with a project of a reasonable scale.

Senator CORMANN (Western Australia—Minister for Finance) (21:58): This is, of
course, where the rubber hits the road, and where it becomes very obvious that Senator Milne
and the Greens do not understand what a true market based mechanism actually is. The thing
about auctions, the thing about the market at work, is that the outcomes of those auctions will
be determined at the auction. So you cannot speculate in the way that Senator Milne is
suggesting that we should speculate on what projects will win and on what basis. You are
assuming that what you know is all there is. The truth is that the market at work will always
generate so much more. The reason you have an auction is that you want to unleash those
market forces. You want to unleash the ingenuity in the market, and that is what we are doing
through our Emissions Reduction Fund. We are unleashing the creative juices of businesses
across Australia in order to come up with the best possible ways, the most effective possible
ways, of achieving emissions reductions. That is clearly a fundamental point that Senator
Milne does not accept.

Senator MILNE (Tasmania—Leader of the Australian Greens) (22:00): I did ask the
minister about aggregation. It is very clear that there are a huge range of costs for
participating in the Emissions Reduction Fund for the project proponents. They include but
are not limited to a requirement for registration, eligibility requirements, participation in
purchasing processes, contractual arrangements, ongoing compliance arrangements and also
an allowance for the potential risks to a project proponent and some allowance for being
unsuccesful in a purchasing arrangement despite other requirements being satisfied. So I am
asking you what assistance there is going to be to help people get into aggregation so that they
can bid in with a project at reasonable scale and therefore have a reasonable opportunity for
success.
Senator CORMANN (Western Australia—Minister for Finance) (22:01): I take on board the points Senator Milne is making but make a couple of points in response. We have actually made changes to reduce the cost of participating, and that includes reducing the number of steps to register projects. We are also looking at ways to make it easier for small projects to participate, such as through standard aggregation terms. The chamber before did not allow us to move all of the government's amendments together, and we are sort of not really making that much progress on the bill as a whole.

One of the key objectives of this bill is to reduce red tape and simplify the Carbon Farming Initiative itself in its expanded form so the Emissions Reduction Fund and related measures can operate. One of the key purposes of what we are doing is to make participation easier for businesses across Australia.

Senator XENOPHON (South Australia) (22:02): Before we go to specific amendments I do have another question that I want to raise briefly because it is an area of concern in relation to crediting periods. Why will the government only allow one crediting period? If projects are achieving additionality, why shouldn't they be able to claim for subsequent crediting periods?

Senator CORMANN (Western Australia—Minister for Finance) (22:02): I think this is actually something that will be touched on as we go through the various amendments. I believe there is an amendment that has been foreshadowed about extending the contract periods from five years to seven years, and I believe there is an amendment put forward by you, Senator Xenophon, that actually deals with this issue. I believe the government has given an indication to you that we will be supportive of that amendment. So the question you are asking is answered by your amendment, which we have indicated we would support.

Senator MILNE (Tasmania—Leader of the Australian Greens) (22:03): I am seeking absolute clarification here. I have gone through everything the minister has said with regard to the Clean Energy Finance Corporation and ARENA, and there is a real difference between what has been said in the media and what you are saying here tonight. I am taking from what you are saying here tonight that there is no deal with the Palmer United Party to save the Clean Energy Finance Corporation or ARENA; all you have done is say that you will not move those abolition bills this year. You will move them early next year and take your chances on the floor of the House. So there is no deal at all; it is just a normal scenario in here, and this is really a con job. Is that what I am hearing?

Senator CORMANN (Western Australia—Minister for Finance) (22:04): I absolutely and totally reject any suggestion that there is any con job here whatsoever. That is an offensive suggestion. We have engaged positively, constructively, transparently, openly and honestly with the Palmer United Party, and what we have agreed to is that we will not be bringing back legislation to repeal the Clean Energy Finance Corporation and ARENA before the end of this year.

Having said that, as I have indicated before, it does remain the government's policy that we are committed to the abolition of the Clean Energy Finance Corporation and ARENA. Nothing in what we have agreed on with the Palmer United Party changes the government's policy. But I would also say the obvious point that Senator Milne actually made in her second reading speech. In her second reading speech Senator Milne pointed out that, given that Labor, the Greens and the Palmer United Party are opposed to the abolition of the Clean Energy Finance Corporation and ARENA, as long as neither Labor, the Greens nor the
Palmer United Party and Australian Motoring Enthusiasts Party change their mind, it is bleedingly obvious that, even though that might be the government's policy, we will not have the opportunity to give effect to that policy, as disappointed as we might be by that.

So, to be exceptionally clear again—and I thought that I had gone over this again and again on a number of occasions—the government has agreed not to bring back the legislation to repeal the Clean Energy Finance Corporation and ARENA this year. However, it remains our policy to pursue and eventually implement that abolition of the Clean Energy Finance Corporation and ARENA because, in particular in relation to the Clean Energy Finance Corporation, we consider it a complete waste of taxpayers money. We do not believe that it is effective, particularly in an environment where we have to borrow all of the capital that they deploy.

Having said that, we are obviously very pragmatic and very realistic. As long as Labor, the Greens, the Palmer United Party and the Australian Motoring Enthusiasts Party remain opposed to the abolition of the CEFC and ARENA, it will not happen.

Senator MILNE (Tasmania—Leader of the Australian Greens) (22:06): Yes, so it is exactly as I understood. All that has happened is there is no deal at all here; it is just that they are not going to bring the abolition bills back until early next year, and then they will bring them back and they will take their chances with the numbers on the floor. That is a vastly different position from going out saying that a deal has been reached to save them. There has been no deal reached to save them; there is only a deal to say that they are on hold for a few months. What we now have is this huge cloud of uncertainty. You had both ARENA and the Clean Energy Finance Corporation having heard those words about them being saved, thinking that that was the case, and they are not. They are now just hung out until you bring in the abolition bills next year and hope for the best on the numbers. That is disgraceful.

Senator XENOPHON (South Australia) (22:07): By way of clarification: I asked a question in respect of contract provisions. Perhaps the minister misunderstood the question for whatever reason. My question was: why will the government only allow one crediting period that involves one review period and one extension of that period? As a result of the negotiations with the government, that was the best I could do. This is not a criticism; it is just a statement of fact. I do not want the minister to suggest that I was asking something that is going to be answered by a subsequent amendment. The issue was: if you can achieve additionality, why wouldn't you allow for extensions of crediting periods beyond one extension? That was all. I do not necessarily want a response from the minister in respect of that; I just wanted it to be understood by the minister and by the many thousands—maybe hundreds, maybe dozens!—of people listening now that I was not trying to ask a question that would be answered by my amendment. It is actually a legitimate issue where the government has taken a narrow view in relation to additionality and extensions. I wanted to put that on the record.

Senator CORMANN (Western Australia—Minister for Finance) (22:08): I thank Senator Xenophon. The reason for the government's approach to this is that we want to ensure value for money by crediting projects for a defined crediting period. Over time, emissions reduction activities that receive government funding to get started will become business as usual as businesses become more efficient. A single crediting period will ensure that emission reduction activities which become non-additional overtime are not funded indefinitely.
Taxpayer funds will instead target new projects and investments in emissions reductions, continually building on previous gains.

The CHAIRMAN: Minister, it might be appropriate for you to move another amendment.

Senator CORMANN: I seek leave to move amendments (6) and (7) together, which are the remaining amendments on sheet HV130.

Leave not granted.

Senator CORMANN: I move government amendment (6) on sheet HV130. I have previously spoken to it:

(6) Schedule 1, item 393, page 105 (after line 27), after subitem (2), insert:

(2A) Section 123D of the new law does not apply to that advice.

Senator SINGH (Tasmania) (22:10): We are going through these amendments as they are written, separately. If the government see that this bill is as significant and as important as they have claimed it to be then I think they would understand that it is worth not just ramming it through the parliament like a rubber stamp. We all know the deal has been done, but I think the Australian public deserve the respect to have scrutiny applied to a huge sum of $2.55 billion, especially at a time when you have the government claiming that there is a budget emergency or a budget crisis and trying to rip apart and destroy the higher education and social welfare sectors in this country, yet taking $2.55 billion to put into a policy that has been described by the member for Wentworth as a con and has been described by the opposition as a dud—and that is exactly what it is: to put that amount of money into a policy that will not reach the five per cent reduction target by 2020 and with no scientists or economists and no modelling, more importantly, done by the government to prove that to be the case. That is why we are going to be very thorough in relation to this legislation, because we do care about where taxpayers' dollars are being spent. We do care very much about the answers that are given by the minister, which up until now, from what I have heard, have not been given at all.

We know these amendments are quite technical in their nature, but nevertheless I still would like to ask something in relation to them. My question, which I could have asked earlier in the general component before we moved on to these schedules, is in relation to the penalty arrangements for companies that exceed the baseline. I did actually want to ask that question. I know that we have moved into this section of the technical amendments, but I still would put that question to the minister: could he explain the penalty arrangements for those companies that exceed their baselines?

The CHAIRMAN: Before I call the minister, can I say that, given that we are narrowing the scope of the discussion to individual and specific amendments, that also by nature will narrow the questioning to those specific amendments too. Having said that as some general advice, I call the minister.

Senator CORMANN (Western Australia—Minister for Finance) (22:13): The question did not relate to the amendment.

The CHAIRMAN: The question is that amendment (6) on sheet HV130 be agreed to.
The committee divided. [22:18]
(The Chairman—Senator Marshall)

Ayes ..................... 33
Noes ..................... 27
Majority ............... 6

**AYES**

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**NOES**

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Question agreed to.

**Senator CORMANN** (Western Australia—Minister for Finance) (22:20): I move government amendment (7) on sheet HV130:

(7) Schedule 1, page 106 (after line 4), after item 393, insert:

393A Transitional—advice request given to the Interim Emissions Reduction Assurance Committee

Scope

(1) This item applies if, before the commencement of this item:
(a) the Minister requested the Interim Emissions Reduction Assurance Committee to advise the Minister about whether the Minister should make a methodology determination; and

(b) the Committee had not given that advice to the Minister; and

(c) the Committee or the Department published on the Department's website:

(i) a draft of the methodology determination; and

(ii) a notice inviting the public to make a submission on the draft by a specified time limit (being a time limit of at least 14 days after the notice is published).

**Effect of request**

(2) The new law has effect as if the Minister had, immediately after the commencement of this item, made that request to the Emissions Reduction Assurance Committee under subsection 106(10) of the new law.

**Consultation**

(3) The Emissions Reduction Assurance Committee:

(a) is not required to comply with section 123D in relation to the requested advice; and

(b) must not advise the Minister to make the methodology determination unless the Committee has considered any submissions mentioned in subparagraph (1)(c)(ii) of this item that were received within the time limit mentioned in that subparagraph; and

(c) must publish on the Department's website any submissions received within that time limit.

(4) However, the Emissions Reduction Assurance Committee must not publish a particular submission made by a person if the person has requested the Committee not to publish the submission on the ground that publication of the submission could reasonably be expected to substantially prejudice the commercial interests of the person or another person.

(5) A request under subitem (4) must:

(a) be in writing; and

(b) be in a form approved, in writing, by the Emissions Reduction Assurance Committee.

**Definition**

(6) In this item:

*Interim Emissions Reduction Assurance Committee* means the committee that was:

(a) established under the executive power of the Commonwealth before the commencement of this item; and

(b) known as the Interim Emissions Reduction Assurance Committee.
efficient implementation of the Emissions Reduction Fund. This amendment, together with
amendments (5) and (6), ensure consultation processes are not duplicated while, at the same
time, maintaining the important role of the Emissions Reduction Assurance Committee to
undertake an assessment of the emissions reduction methods. This amendment, together with
amendments (5) and (6), will allow projects to get going quickly and participate in the
Emissions Reduction Fund efficiently.

Senator MILNE (Tasmania—Leader of the Australian Greens) (22:22): I indicate that the
Australian Greens have a view that the only thing worth saving in this bill are the existing
projects, and that is why it is foreshadowed that the amendment I have later is in conflict with
this one, because it is my view that there is an opportunity for the Senate to save the existing
projects and then vote against the rest of the bill entirely so that we keep those jobs and the
investment that is already there in those 160-odd projects. That is why I am not supporting
this.

Senator CORMANN (Western Australia—Minister for Finance) (22:23): I have to
respond to that because I would not want people to be under the misapprehension, based on
what was quite a misleading contribution, that the government is not saving the existing
Carbon Farming Initiative projects, because it is. We are transitioning existing Carbon
Farming Initiative projects, more than 170 of them, into the Emissions Reduction Fund. This
provides a future for those existing projects. Of course, we also, through this bill, will expand
the Carbon Farming Initiative to other sectors of the economy beyond the land sector, which
enables practical emissions reduction projects across the economy.

The CHAIRMAN: The question is that amendment (7) on sheet HV130 be agreed to.
The committee divided. [22:28]

(The Chairman—Senator Marshall)

Ayes ......................33
Noes ......................27
Majority ...............6

AYES

Abetz, E
Bernardi, C
Birmingham, SJ
Brandis, GH
Bushby, DC
Canavan, M.J.
Cash, MC
Colbeck, R
Cormann, M
Day, R.J.
Edwards, S
Fawcett, DJ
Fifield, MP
Heffernan, W
Johnston, D
Lambie, J
Lazarus, GP
Leyonhjelm, DE
Macdonald, ID
Madigan, JJ
Mason, B
McKenzie, B
Muir, R
O'Sullivan, B
Parry, S
Payne, MA
Ronaldson, M
Ruston, A (teller)
Seselja, Z
Sinodinos, A
Wang, Z
Williams, JR
Xenophon, N
Question agreed to.

Senator CORMANN (Western Australia—Minister for Finance) (22:30): I move government amendment (4) on sheet HV130:

(4) Schedule 1, item 387, page 92 (lines 18 to 22), omit subitem (1), substitute:

(1) This item applies if an eligible offsets project is a native forest protection project (within the meaning of the old law), and:

(a) the following conditions are satisfied:

(i) the project existed immediately before the commencement of this item;

(ii) the applicable methodology determination includes one or more provisions covered by paragraph 106(1)(d) of the old law; or

(b) the following conditions are satisfied:

(i) the project became an eligible offsets project after the commencement of this item as the result of an ERF transitional application;

(ii) the project is covered by the Carbon Credits (Carbon Farming Initiative) (Avoided Deforestation) Methodology Determination 2013;

(iii) that determination includes one or more provisions covered by paragraph 106(1)(d) of the old law.

This is a minor technical amendment which will efficiently and effectively smooth the implementation of the Emissions Reduction Fund. There are already a number of existing projects approved under the Carbon Farming Initiative where landholders have voluntarily decided not to clear their land and instead preserve forest. This amendment assists these projects to transition more easily to the Emissions Reduction Fund and apply new methods which are being developed. Farmers and landholders will welcome this amendment because it allows them to receive credits for their projects sooner than was the case under the Carbon Farming Initiative rules.

Senator SINGH (Tasmania) (22:30): Can the senator please explain the actual impact of native forest protection projects and, more to the point, the status of our native forests due to this amendment?
Senator CORMANN (Western Australia—Minister for Finance) (22:31): This is actually not an amendment about native forests, so you are asking a question that is not related to the amendment.

Senator SINGH (Tasmania) (22:31): It is indeed. You are moving amendment (4). It reads, 'This item applies if an eligible offsets project is a native forest protection project.' That is why my question was specifically about the native forest protection projects and, more to the point, the status of our native forests due to this amendment. Please answer the question.

Senator CORMANN (Western Australia—Minister for Finance) (22:31): I just repeat: what this amendment is actually about is projects in western New South Wales, in marginal land, and landholders strategically clearing land and leaving trees on the marginal land.

The CHAIRMAN: The question is that government amendment (4) on sheet HV130 be agreed to.

The committee divided. [22:36]

(The Chairman—Senator Marshall)

Ayes .................33
Noes .................27
Majority .............6

AYES

Abetz, E
Birmingham, SJ
Bushby, DC
Cash, MC
Cormann, M
Edwards, S
Fifield, MP
Johnston, D
Lazarus, GP
Macdonald, ID
Mason, B
Muir, R
Parry, S
Ronaldson, M
Seselja, Z
Wang, Z
Xenophon, N

Bernardi, C
Brandis, GH
Canavan, M.J.
Colbeck, R
Day, R.J.
Fawcett, DJ
Heffernan, W
Lambie, J
Leyonhjelm, DE
Madigan, JJ
McKenzie, B
O’Sullivan, B
Payne, MA
Ruston, A (teller)
Sinodinos, A
Williams, JR

NOES

Bilyk, CL
Cameron, DN
Dastyari, S
Gallacher, AM
Ketter, CR
Ludlam, S
McEwen, A
Milne, C
O’Neill, DM
Rhiannon, L
Siewert, R

Bullock, J.W.
Collins, JMA
Di Natale, R
Hanson-Young, SC
Lines, S
Marshall, GM
McLucas, J
Moore, CM
Polley, H
Rice, J
Singh, LM
Senator CORMANN (Western Australia—Minister for Finance) (22:38): I move government amendment (2) on sheet HV130:
(2) Schedule 1, item 152, page 47 (lines 6 to 10), omit subsection 71(2), substitute:

Crediting period
(2) Despite any other provision of this Part, the crediting period for the project is:
(a) the first crediting period for the project worked out under section 69 as it stood immediately before the commencement of this Part; or
(b) if another period is specified in the applicable methodology determination for the project—that other period that began when the declaration of the project under section 27 took effect.

It is a minor technical amendment—together with amendment (3), which I foreshadow—which will efficiently and effectively smooth the implementation of the Emissions Reduction Fund. As stated for the previous amendment, there are already a number of existing projects approved under the Carbon Farming Initiative where landholders have voluntarily decided not to clear their land and preserve forests instead. These amendments are designed to provide greater flexibility for a method to provide an alternative crediting period for the existing 20-year period. This will allow the crediting period to better reflect when the abatement actually occurs.

Senator SINGH (Tasmania) (22:39): This bill, or this policy at least, has been a long time in the making. It is always fairly embarrassing a government has to make amendments to its own bill, but especially when it has been that long in the development phase. What's it been? Over a year now.

Were these amendments necessary as part of the government’s dirty deal with Clive Palmer—a deal they promised they would never enter into in their election campaign; we will always remember those words from Tony Abbott? That is the first question. In relation to the credit periods, they seem rather random and I would like to know whether these amendments came about through consultation and, more specifically, whether they are part of the deal with Clive Palmer?

The CHAIRMAN: The question is that amendment (2) on sheet HV130 be agreed to.

The committee divided. [22:44]

(The Chairman—Senator Marshall)

Ayes ......................33
Noes ......................27
Majority.................6

AYES
Abetz, E
Bernardi, C
Birmingham, SJ
Brandis, GH
Question agreed to.

Senator CORMANN (Western Australia—Minister for Finance) (22:46): I move government amendment (3) on sheet HV130:

(3) Schedule 1, item 203, page 58 (line 26), omit "and 70", substitute ", 70 and 71".

The same explanation I provided to the chamber on amendment (2) applies to amendment (3).

The CHAIRMAN: The question is that amendment (3) on sheet HV130 be agreed to.

The committee divided. [22:47]

(The Chairman—Senator Marshall)

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AYES

Abetz, E
Birmingham, SJ

BERNARDI, C
BRANDIS, GH
Question agreed to.

Senator CORMANN (Western Australia—Minister for Finance) (22:49): I move government amendment (1) on sheet HV130:

(1) Schedule 1, item 107, page 31 (lines 22 and 23), omit "methodology determination that covers the project specifies", substitute "legislative rules specify".

This is a minor technical amendment which will efficiently and effectively smooth the implementation of the Emissions Reductions Fund. This amendment allows for the government program eligibility test to be set in legislative rules providing greater legislative certainty and avoiding differences in approaches between methods. This will provide greater clarity and certainty to business, and it will provide further assurance that the Emissions Reduction Fund will not fund projects that are already funded by another government program.

Senator SINGH (Tasmania) (22:50): In relation to this amendment, why does the government need to give itself this rule-making power with respect to the provisions around government programs? Clearly that is what this amendment is about. It is about the
government having that rule-making power. Why didn't you include that relevant provision in the body of the bill so that it is accountable in the proper way?

The TEMPORARY CHAIRMAN: The question is that amendment (1) on sheet HV130 be agreed to.

The committee divided. [22:55]

(The Chairman—Senator Marshall)

Ayes .................33
Noes .................27
Majority.............6

AYES

Abetz, E                      Bernardi, C
Birmingham, SJ               Brandis, GH
Bushby, DC                   Canavan, MJ.
Cash, MC                     Colbeck, R
Cormann, M                   Day, R.J.
Edwards, S                   Fawcett, DJ
Fifield, MP                  Heffernan, W
Johnston, D                  Lambie, J
Lazarus, GP                  Leyonhjelm, DE
Macdonald, ID                Madigan, JJ
Mason, B                     McKenzie, B
Muir, R                      O'Sullivan, B
Parry, S                     Payne, MA
Ronaldson, M                 Ruston, A (teller)
Seselja, Z                   Sinodinos, A
Wang, Z                      Williams, JR
Xenophon, N

NOES

Bilyk, CL                     Bullock, J.W.
Cameron, DN                  Collins, JMA
Dastyari, S                   Di Natale, R
Gallacher, AM                 Hanson-Young, SC
Ketter, CR                    Lines, S
Ludlam, S                    Marshall, GM
McEwen, A                    McLucas, J
Milne, C                      Moore, CM
O'Neill, DM                   Polley, H
Rhiannon, L                   Rice, J
Siewert, R                    Singh, LM
Sterle, G                     Urquhart, AE (teller)
Whish-Wilson, PS             Wong, P
Wright, PL

Question agreed to.

Senator XENOPHON (South Australia) (22:57): I move amendment (1) on sheet 7583: (1) Schedule 1, page 3 (before line 6), before item 1, insert:
1A Subsection 3(2) (heading)
   Repeal the heading, substitute:
   Climate Change Convention and Kyoto Protocol etc.

1B Subsection 3(2)
   Omit "to implement certain obligations that Australia has under", substitute "to remove greenhouse gases from the atmosphere, and avoid emissions of greenhouse gases, in order to meet Australia's obligations under any or all of the following".

1C Paragraph 3(2)(a)
   Omit "and".

1D At the end of subsection 3(2)
   Add:
   ; (c) an international agreement (if any) that is the successor (whether immediate or otherwise) to the Kyoto Protocol.

This amendment inserts new phrases into the provisions of the bill that deal with amending the objects of the Carbon Credits (Carbon Farming Initiative) Act 2011. This is to ensure that the objects of the act make specific reference to any international agreements Australia enters into or obligations Australia must meet post Kyoto. The aim of this amendment is to ensure the applicability of the act in the longer term. In turn, this contributes to creating an environment of greater certainty for investors and participants in the scheme. As I said in my speech on the second reading, this is basically offering a point of clarification in terms of the scheme of the act.

Senator CORMANN (Western Australia—Minister for Finance) (22:58): I thank Senator Xenophon. The government supports this amendment as a technical amendment.

Senator MILNE (Tasmania—Leader of the Australian Greens) (22:58): I note that what this amendment essentially does is include any future international agreement as a guiding object of the act. The problem is that this piece of legislation and this agreement would not start until 2021. Frankly, this Direct Action scheme will not last that long. This is not going to be hanging around until 2021. It will become a huge drag on the budget. As I said earlier, Senator Cormann has got no modelling. There is no way they can even get to five per cent, let alone what a post-2020 agreement would actually cost. So, while we do not have any objection to the idea that you would have future international agreements as a guiding object of the act, the fact is that, because it does not start until 2021, there is not much point.

Senator SINGH (Tasmania) (22:59): We now know why the government is going to agree to this amendment by Senator Xenophon. It clearly does not take effect for such a long period of time. I think it is correct to say that, without billions and billions and billions of dollars of taxpayers' money continuing to be spent right up until 2021, this amendment does not come into effect. So, while it may take account of any future international agreements, it is simply out of the ballpark when we are currently in 2014 to think of how that is going to take effect when it is in the out years ahead. So there is no wonder why the government is agreeing to this amendment.

Senator XENOPHON (South Australia) (23:00): By way of clarification, it is my understanding that post-Kyoto agreements will not take place until post-2021. That is the reason for the framework of this amendment.
The CHAIRMAN: The question is that amendment (1) on sheet 7583 be agreed to.
The committee divided. [23:04]
(The Chairman—Senator Marshall)

Ayes ...................... 31
Noes ...................... 29
Majority ............... 2

AYES

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Canavan, M.J.
Colbeck, R
Edwards, S
Fifield, MP
Johnston, D
Lazarus, GP
Madigan, JJ
McKenzie, B
Nash, F
Parry, S
Ronaldson, M
Seselja, Z
Wang, Z
Xenophon, N

Bernardi, C
Bushby, DC (teller)
Cash, MC
Cormann, M
Fawcett, DJ
Heffernan, W
Lambie, J
Macdonald, ID
Mason, B
Muir, R
O’Sullivan, B
Payne, MA
Ruston, A
Sinodinos, A
Williams, JR

NOES

Bilyk, CL (teller)
Cameron, DN
Conroy, SM
Day, R.J.
Faulkner, J
Hanson-Young, SC
Leyonhjelm, DE
Ludlam, S
McEwen, A
Milne, C
O’Neill, DM
Rice, J
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Wright, PL

Bullock, J.W.
Collins, JMA
Dastyari, S
Di Natale, R
Gallacher, AM
Ketter, CR
Lines, S
Marshall, GM
McLucas, J
Moore, CM
Rhiannon, L
Siewert, R
Urquhart, AE
Wong, P

PAIRS

Back, CJ
Brandis, GH
Fierravanti-Wells, C
McGrath, J
Reynolds, L
Ryan, SM
Scullion, NG

Carr, KJ
Waters, LJ
Peris, N
Polley, H
Ludwig, JW
Sterle, G
Brown, CL
Question agreed to.

Senator XENOPHON (South Australia) (23:06): I move amendment (1) on sheet 7584 standing in my name:

(1) Schedule 1, item 5, page 6 (after line 22), after section 20C, insert:

**20CA Duration of carbon abatement contracts**

(1) In setting the duration of a proposed carbon abatement contract, the Regulator must have regard to the following matters:

(a) such matters as are specified in the legislative rules;

(b) such other matters (if any) as the Regulator considers relevant.

(2) In exercising the power to make legislative rules for the purposes of paragraph (1)(a), the Minister must have regard to the following matters:

(a) the principle that, in general, the duration of a carbon abatement contract for the purchase of Australian carbon credit units should not be longer than 7 years;

(b) the principle that a longer duration of a carbon abatement contract for the purchase of Australian carbon credit units may be appropriate if the units are, or are to be, derived from an eligible offsets project that has a crediting period of more than 7 years;

(c) such other matters (if any) as the Minister considers relevant.

This amendment inserts a new section 20CA into the bill to introduce specific requirements regarding the length of carbon abatement contract terms. Under this amendment the minister must make legislative rules regarding contracts and the regulator must consider these rules and any other relevant matters when setting the duration of a proposed contract.

This amendment also sets out specific matters the minister must have regard to when making the rules. These matters include that, in general, a contract should be no longer than seven years and that projects with longer crediting periods may need longer contract terms. This amendment aligns the average crediting and contracting periods so there is no confusion and in so doing addresses one of the major concerns that were raised with me by a number of organisations when the bill was first released. It has been widely supported by industry and provides applicants under the scheme with greater long-term certainty.

Senator CORMANN (Western Australia—Minister for Finance) (23:08): The government supports this amendment proposed by Senator Xenophon. Under the Emissions Reduction Fund, project proponents that are successful at auction will need to enter into contracts with the Clean Energy Regulator. Under this amendment the government will make legislative rules on contract duration which will be implemented by the Clean Energy Regulator.

The government undertook market testing to assess the commercial viability and impacts of alternative contract lengths on different types of projects across a number of key sectors. The market testing analysis indicated strong support from business for longer contract periods and found that longer periods could facilitate more projects being brought forward to auction. In the context of the white paper process, we did indicate that we would further explore this as well.
Businesses have argued that contract periods longer than five years would give them greater certainty and encourage greater participation in the Emissions Reductions Fund. That increased participation will lead to increased competition, lower auction prices and increased emissions reduction from the Emissions Reduction Fund. On that basis the government supports this amendment.

Senator SINGH (Tasmania) (23:09): These amendments are clearly related, it seems to me, to amendments on sheet 7585 which relate to crediting periods. Many projects need to be contracted for longer than seven years to be viable. This amendment takes that period into account. What I am interested in understanding from Senator Cormann is how this would work in a budgetary sense. Given that we have been told repeatedly that the budget for the ERF is capped at $2.55 billion and we are talking about a period of longer than seven years for it to be viable, how would this work in a budgetary sense?

Senator CORMANN (Western Australia—Minister for Finance) (23:10): All it does is increase flexibility. It means that more projects will be able to participate within the funding that is available. Increased competition, as I indicated in my comments on the amendment, means that we will be able to achieve lower auction prices and increased emissions reductions from the Emissions Reduction Fund. The important point directly relevant to the question that Senator Singh has asked is that this amendment does not change the funding envelope, which essentially seeks to increase the level of competition within the capped funding that is available in order to maximise the effectiveness of the projects that are successful.

The CHAIRMAN: The question is that amendment (1) on sheet 7584 be agreed to.

The Committee divided. [23:15]

(Ayes .......................... 40
Noes .......................... 18
Majority ...................... 22)

AYES
Abetz, E
Birmingham, SJ
Bushby, DC (teller)
Cash, MC
Cormann, M
Edwards, S
Fifield, MP
Heffernan, W
Lambie, J
Ludlam, S
Madigan, JJ
McKenzie, B
Muir, R
Parry, S
Rhiannon, L
Ronaldson, M
Seselja, Z
Sinodinos, A
Whish-Wilson, PS
Wright, PL

Bernardi, C
Brandis, GH
Canavan, M.J.
Colbeck, R
Di Natale, R
Fawcett, DJ
Hanson-Young, SC
Johnston, D
Lazarus, GP
Macdonald, ID
Mason, B
Milne, C
O'Sullivan, B
Payne, MA
Rice, J
Ruston, A
Siewert, R
Wang, Z
Williams, JR
Xenophon, N
Question agreed to.

Senator XENOPHON (South Australia) (23:17): by leave—I move amendments (1) to (4) on sheet 7585 together:

(1) Schedule 1, item 38A, page 17 (before line 11), before the definition of designated savanna project, insert:

crediting period extension review has the meaning given by section 255A.

(2) Schedule 1, item 210, page 61 (after line 20), after subsection 114(7), insert:

(7A) The Minister must not vary a methodology determination so as to extend the crediting periods for the eligible offsets projects covered by the determination unless:

(a) the Emissions Reduction Assurance Committee has advised the Minister under subsection 123A(2) or paragraph 255(hc) that the variation should be made; and

(b) the Emissions Reduction Assurance Committee has not previously advised the Minister under subsection 123A(2) or paragraph 255(hc) that the variation should not be made; and

(c) the determination has not previously been varied so as to extend the crediting periods.

(3) Schedule 1, item 278, page 75 (after line 12), after paragraph 255(h), insert:

(ha) to undertake crediting period extension reviews;

(hb) to undertake public consultation in relation to crediting period extension reviews;

(hc) to advise the Minister in relation to the outcomes of crediting period extension reviews and any related public consultation;

(hd) to advise the Secretary in relation to the outcomes of crediting period extension reviews and any related public consultation;

(4) Schedule 1, page 75 (after line 14), after item 278, insert:
278A At the end of Division 1 of Part 26

Add:

255A Crediting period extension reviews

(1) For the purposes of this Act, a crediting period extension review means a review of whether a methodology determination should be varied so as to extend the crediting periods for the eligible offsets projects covered by the determination.

(2) In performing the function conferred by paragraph 255(ha), the Emissions Reduction Assurance Committee must regard to whether the relevant eligible offsets projects would still comply with the offsets integrity standard set out in paragraph 133(1)(a).

(3) In performing the function conferred by paragraph 255(ha), the Emissions Reduction Assurance Committee must conduct such public consultation as it considers appropriate.

(4) In performing the function conferred by paragraph 255(ha), the Emissions Reduction Assurance Committee must ensure that, for each methodology determination, the Committee completes a crediting period extension review before the first point in time when an eligible offsets project covered by the determination starts the last 12 months of its last crediting period.

This amendment requires the Emissions Reduction Assurance Committee to conduct a review of each project methodology 12 months before the crediting period of the first project registered until this methodology expires. This review must consider whether an extension to the crediting period under the methodology is required and make a recommendation to the minister to that effect. The minister must then vary the methodology accordingly. When undertaking the review, the ERAC, the Emissions Reduction Assurance Committee, must consider whether the projects under the methodology are still complying with the offsets integrity standards—that is, whether they are still achieving additionality. The ERAC must also undertake whatever public consultation it believes necessary during this review process.

I would like to note at this stage that the version of the amendment I have moved varies slightly from the exposure draft. In response to feedback from the sector, I have removed a clause requiring the ERAC to take into consideration any other matters as it considers relevant during the review. This change does not impact on the intention of the amendment; it is in response to concerns that were raised with me that its inclusion would give the ERAC too broad a scope and that it would be preferable for the review to focus only on additionality, which is now the case. The intention of this amendment is to encourage and support projects that can achieve longer term abatement. It also serves as a signal that the ability for projects to create credits will be around for the long term. In turn, this creates greater investment certainty and will encourage more organisations to participate in the ERF process.

My appeal to the opposition in respect of this, given their opposition to the previous amendment, is: I understand you oppose this legislation—I respect that—but surely this would be an improvement on the legislation in terms of environmental outcomes. I would urge you to support this amendment, even if you oppose the legislation as a whole.

Senator CORMANN (Western Australia—Minister for Finance) (23:19): This amendment requires the Emissions Reduction Assurance Committee to review emissions reduction methodologies when the first project approved under the methodology is one year from the end of its crediting period and advise the minister on whether to extend the crediting period. The government supports this amendment.
Senator SINGH (Tasmania) (23:20): I think Senator Xenophon for his contribution. The opposition do not support this amendment because we do not support this bill as a whole. As we have made very clear, this bill is fundamentally flawed. But I will ask a specific question in relation to the amendment on sheet 7585. It is similar, I think, in some respects to the amendment on sheet 7584, because the shortened single crediting period of the ERF was an issue that I understand was identified early by stakeholders. Many projects clearly need to be credited for longer than seven years to be viable. So this amendment takes this into account, but how long can you see crediting extensions being? Would it be for an additional seven years?

Senator IAN MACDONALD (Queensland) (23:21): I have a question for Senator Xenophon too, but before I do that I want to assist the Labor Party. It is clear that the children who are running the Labor Party at the present time really, by calling a division on every single amendment when they know most of them are going to be defeated, want to be able to put in their newsletters that they sat here until seven o'clock on Saturday morning. I can understand it, particularly for the newer members. I thought it was pretty schmick when that happened once to me. I think it was the time of the Mabo debates and we finished at seven or eight o'clock on Saturday morning. It was a bit of a buzz in those days. I thought the maturity of the Senate had improved, but clearly it has not. So the Labor Party have this idea that they are going to call a division on every one of these many amendments.

For the few people who might actually be listening to this debate, can I just explain again, for those who do not understand how the Senate works, just what is happening here. We are having a debate on a bill. There have been a number of amendments put forward, and the way things proceed is that whoever moves the amendment is then subjected to questioning about the amendment by others who want clarification or who want amendments. But you find the Labor Party are not even arguing the substantive issues.

The TEMPORARY CHAIRMAN (Senator Dastyari): Senator Macdonald, resume your seat, please. I remind the chamber that it is a requirement that you be relevant to the amendment.

Senator IAN MACDONALD: As I said, I have a question for Senator Xenophon and it follows other questions. Whether it is six, seven or eight years, I want to understand why, and I want to go into that shortly. But I just want people to understand what is happening here and how this process is working. If you have substantive arguments to put, that is fine. That is good. But the Labor Party here have silly, childish, student politics sorts of questions—and they know they are not going to win because they are not convincing even the Greens, I might say. But they are still calling divisions.

You do not have to be Einstein to work out there are 33 in the coalition and 25 in the Labor Party—although I see there are only 16 of them here today. All of the senior frontbenchers cleverly vacated and left it to the backbenchers to look after. So there are 16 Labor Party people here. Anyone can work this out. There are 10 Greens, three Palmer United, six crossbenchers. You can work it out. If you were serious about debating it, you would have some serious, substantive arguments rather than playing this university-style game of 'we'll make you stay later by having a division on every single amendment'. As I say, I am going to help them, because I am henceforth going to speak for 15 minutes on every amendment and
that way we will get to seven o’clock in the morning—and you won’t have to call a division on every single amendment. You will get some maturity and work out what this is all about.

Mr Chairman, I take your earlier admonishment, but I must say that you offended me mightily yesterday when you referred to me as not being terribly sophisticated or intelligent. You did not even think I heard you say that, but I did and it cut me to the quick. I do not knock around with my namesake in Sydney; I do not rub shoulders with all those crooks that inhabit the Labor Party around Sydney and so I do not have the sophistication that you people have. I never went to a university. I suspect, Mr Chairman, that I paid for your university education through my taxes, but I never got there and so I accept that you are more intelligent and better educated than I. I only raise those points because I am trying to help your team in wasting the time so we can get to seven o’clock, if that is the desire you seek in having a division on every single amendment.

Senator Xenophon, perhaps you could explain why you picked that number of years.

Senator XENOPHON (South Australia) (23:26): I would like to thank Senator Macdonald for his very intelligent question. This was as the result of consultation with many proponents of projects, such as landfill gas projects where you capture methane from landfill—which is a very worthy way of reducing greenhouse gases and a way that has been in force for many years. It was felt that a five-year period was not enough and a seven-year period would be preferable. I would have preferred a 10-year period, but as a result of negotiations with the government, that was as far as I could push it—and that involved many hours of negotiations with Minister Hunt and his team. The compromise does allow for an extension. Let me put this in perspective: the contract period is the amount of time the government will purchase credits and the crediting period is the amount of time credits can be created for a specific methodology.

Under this amendment the extension allows the creation of credits; it does not require the government to purchase, but it will give more certainty for those larger carbon abatement projects, and that is a good thing in environmental terms. In the broader scope it is an issue that Senator Milne has been quite legitimately concerned about. The review of what the ERAC committee does is to focus on additionality—and the concept of additionality is well set out in the legislation. It is not doing business as usual but adding to the reduction of emissions. Senator Macdonald, I almost feel like a minister—which I never ever will be—but I am more than happy to elaborate on that if I have not answered it adequately.

Senator CORMANN (Western Australia—Minister for Finance) (23:28): I am trying to get myself through the traffic here to address the questions that were put to me by Senator Milne—sorry, Senator Singh. The reason there is a limit to the contract period is that we do not want to provide funding through this mechanism on an ongoing basis for something that becomes business as usual. We want to drive forever further innovation, further improvements, new projects which can drive emissions reduction efforts through this market based mechanism.

This amendment is a sensible way to give ourselves the necessary flexibility to make decisions on a case-by-case basis, based on advice. Where there is a good argument that there ought to be longer contract periods, this amendment gives us a necessary flexibility to do that.
Senator MILNE (Tasmania—Leader of the Australian Greens) (23:29): The Greens will be supporting this amendment, as has been discussed.

One of the really important things here with the Carbon Farming Initiative is that we have learnt quite a bit in practice. What we also have learnt is that technology is changing rapidly and what common practice is, as the minister said just a minute ago, is also changing rapidly. What was new at one point, five or seven years later is common practice. And so it makes sense to review the methodology as technologies improve and as common practice changes. I support this so that we maintain rigor with the Carbon Farming Initiative.

As I said before, I do not support the bill and I will vote against the bill, but I totally support those projects that are currently there as a result of the Carbon Farming Initiative. But we need to make sure that they continue to represent additional emissions reduction and that they continue to be rigorous in that assessment.

Senator SINGH (Tasmania) (23:30): Thank you, Senator Cormann, for attempting to answer my question. However, I am not quite sure if he really has specifically answer to how long the government can see the credit extensions being. Would they be for an additional seven years? That was my question, specifically.

However, I do need to address some of the hypocrisy that has been raised by Senator Macdonald. We do know that Senator Macdonald does not understand this legislation and that he is opposed to any kind of legislation that reduces carbon emissions or has anything to do with climate change, because he does not believe in it. But to resort to ageist attacks on me as being ‘a child’! I do not come into this place and attack him for being ‘an old grandpa’. I respect him—

Senator Bilyk: A grumpy old man!

Senator SINGH: I could have said a grumpy one at that! But I respect him as a senator, as I would expect him to respect me.

But in saying that, I will just make reference to some of the points that Senator Macdonald raised. Firstly, it is the government that is extending the sitting hours in a dirty deal that has been done with the Palmer United Party. It is not the Labor Party that is extending the hours. It is not the Labor Party that is the reason we are still here in this chamber tonight. Let us make that very clear! Let us—

The TEMPORARY CHAIRMAN: Senator, I remind you to be relevant to the amendment.

Senator SINGH: It is the government that has extended the sitting hours.

Also, we have had divisions. But can I draw attention to the fact that these divisions are important because in the last three divisions we have had, the vote has been different in each and every single one of them. This shows, very clearly, how this chamber is voting. And if it likes, I can take the government through the last three divisions. The last division was 33 to the government and 27 to the Labor Party and the Greens. The division before that was 31 to the government and 29 to the Labor Party, the Greens, the Liberal Democratic Party and the Family First Party. The division before that was 40 to the government and 18 to the Labor Party, the Liberal Democratic Party and the Family First Party.
So each division is important. Each division shows that each and every single senator in this place is taking this legislation seriously and is holding this government to account.

Senator Cameron: Except one!

Senator SINGH: So, Senator Macdonald, you can come in here and make your little tirade and carry on, but it just shows you up for what you really are.

Senator XENOPHON (South Australia) (23:33): I just want to clarify in relation to this amendment. The question of a seven-year contract has been dealt with. This amendment allows for rigour in respect of the methodology in respect of additionality. And this is a review. There is no requirement for ERAC—the committee—to extend for a specific period. They can choose what is suitable, based on the methodology. So it does depend on the nature of the project; whether it fulfils the criteria of additionality and the like. I just wanted to clarify that at this late hour, or I think we might be clarifying amendments at a much later hour tonight! So I hope that clarifies it. I am grateful for the questions that Senator Milne has asked in respect of this.

The CHAIRMAN: The question is that amendments (1) to (4) on sheet 7585 be agreed to. The Committee divided. [23:39]

(The Chairman—Senator Marshall)

Ayes ................. 40
Noes ................. 18
Majority............. 22

AYES

Abetz, E
Birmingham, SJ
Bushby, DC (teller)
Cash, MC
Cormann, M
Edwards, S
Fifield, MP
Heffernan, W
Lambie, J
Ludlam, S
Madigan, JJ
McKenzie, B
Muir, R
Parry, S
Rhiannon, L
Ronaldson, M
Seselja, Z
Sinodinos, A
Whish-Wilson, PS
Wright, PL

Bernardi, C
Brandis, GH
Canavan, M.J.
Colbeck, R
Di Natale, R
Fawcett, DJ
Hanson-Young, SC
Johnston, D
Lazarus, GP
Macdonald, ID
Mason, B
Milne, C
O'Sullivan, B
Payne, MA
Rice, J
Ruston, A
Siewert, R
Williams, JR
Xenophon, N

NOES

Bilyk, CL (teller)
Cameron, DN
Conroy, SM
Day, R.J.

Bullock, J.W.
Collins, JMA
Dastyari, S
Gallacher, AM
Question agreed to.

Senator XENOPHON (South Australia) (23:40): by leave—I move amendments (4) and (1) on sheet 7586 together:

(4) Schedule 1, page 106 (after line 32), after Part 2, insert:

Part 2A—Amendments relating to the strategic reserve of emissions units

Division 1—Strategic reserve of emissions units

Carbon Credits (Carbon Farming Initiative) Act 2011

399A At the end of section 3

Add:

Purchase of international emissions units by the Commonwealth

(6) The fifth object of this Act is to authorise the purchase by the Commonwealth of international emissions units to assist Australia to meet its international climate change targets.

399B Section 5

Insert:

international climate change agreement means:

(a) the Climate Change Convention; or

(b) the Kyoto Protocol; or

(c) an international agreement (if any) that is the successor (whether immediate or otherwise) to the Kyoto Protocol.

For the purposes of the application of the definition of Kyoto Protocol to paragraph (b), if the Doha Amendment is not in force for Australia, the Doha Amendment is taken to be in force for Australia.

strategic reserve contract has the meaning given by section 284B.

strategic reserve unit means a Kyoto unit, but does not include a unit specified in the legislative rules.
399C After Part 27

Insert:

Part 27A—Purchase and sale of strategic reserve units by the Commonwealth

284A Simplified outline of this Part

• Kyoto units may be purchased or sold by the Commonwealth.

284B Purchase and sale of strategic reserve units

(1) The Regulator may, on behalf of the Commonwealth, enter into contracts for the purchase or sale by the Commonwealth of strategic reserve units.

(2) For the purposes of this Act, a contract entered into under subsection (1) is to be known as a strategic reserve contract.

Ministerial directions

(3) The Regulator must not enter into a strategic reserve contract, or a series of strategic reserve contracts, unless directed to do so by the Minister under subsection 284F(1).

(4) In exercising the power to give a direction of a kind mentioned in subsection (3), the Minister must have regard to the following matters:

(a) Australia's obligations under international climate change agreements;
(b) Australia's undertakings that:
   (i) concern the reduction of greenhouse gas emissions; and
   (ii) are given under international climate change agreements;
(c) the total amount of domestic carbon abatement that would result from the purchase of eligible carbon credit units by the Commonwealth under carbon abatement contracts;
(d) Australia's current and future climate change targets;
(e) the need to ensure the value for money of expenditure incurred by the Commonwealth in purchasing strategic reserve units under strategic reserve contracts;
(f) such other matters (if any) as the Minister considers relevant.

Spending limit

(5) The total amount of expenditure incurred by the Commonwealth in purchasing strategic reserve units under strategic reserve contracts must not exceed $500 million.

284C When the Regulator has powers etc. of the Commonwealth

(1) The Regulator, on behalf of the Commonwealth, has all the rights, responsibilities, duties and powers of the Commonwealth in relation to the Commonwealth's capacity as a party to a strategic reserve contract.

(2) Without limiting subsection (1):

(a) an amount payable by the Commonwealth under a strategic reserve contract is to be paid by the Regulator on behalf of the Commonwealth; and
(b) an amount payable to the Commonwealth under a strategic reserve contract is to be paid to the Regulator on behalf of the Commonwealth; and
(c) the Regulator may institute an action or proceeding on behalf of the Commonwealth in relation to a matter that concerns a strategic reserve contract.

(3) The Regulator may exercise a power conferred on the Regulator by a strategic reserve contract.
284D Legislative rules may provide for certain matters relating to strategic reserve units etc.

The legislative rules may make provision for and in relation to any or all of the following matters in respect of strategic reserve units purchased by the Commonwealth under strategic reserve contracts:

(a) transferring purchased units to a specified Commonwealth Registry account;
(b) prohibiting or restricting the transfer of units from such an account.

Note: For designation of Commonwealth Registry accounts, see section 12 of the Australian National Registry of Emissions Units Act 2011.

284E Strategic reserve contracts are not instruments made under this Act

To avoid doubt, a strategic reserve contract is taken not to be an instrument made under this Act.

284F Minister may give directions

(1) The Minister may, by legislative instrument, give directions to the Regulator in relation to the exercise of the Regulator's powers under this Part.

Note 1: For variation and revocation, see subsection 33(3) of the Acts Interpretation Act 1901.

Note 2: Section 42 (disallowance) and Part 6 (sunsetting) of the Legislative Instruments Act 2003 do not apply to the direction (see sections 44 and 54 of that Act).

(2) The Regulator must comply with a direction under subsection (1).

284G Annual reports about management of the strategic reserve of emissions units

(1) After the end of each financial year, the Regulator must prepare a report setting out:

(a) the total number of strategic reserve units that were purchased by the Commonwealth during the financial year under strategic reserve contracts; and
(b) the total number of strategic reserve units that were sold by the Commonwealth during the financial year under strategic reserve contracts; and
(c) such other information relating to strategic reserve units held by the Commonwealth as is specified in the legislative rules.

(2) A report under subsection (1) of this section for a financial year must be included in the annual report prepared by the Regulator and given to the Minister under section 40 of the Clean Energy Regulator Act 2011 for the financial year.

Division 2—Consequential amendments

Australian National Registry of Emissions Units Act 2011

399D Section 4

Insert:

Commonwealth foreign registry account has the meaning given by section 86A.

399E Before section 87

Insert:

86A Commonwealth foreign registry accounts

(1) The Commonwealth may:

(a) open and operate an account within a foreign registry; and

(b) do anything incidental to, or ancillary to, the opening or operation of such an account.

(2) An account opened under subsection (1) is to be known as a Commonwealth foreign registry account.
Regulator's power to act on behalf of the Commonwealth

(3) The Regulator may act on behalf of the Commonwealth in relation to the powers conferred by subsection (1).

(4) The Minister may, by legislative instrument, give directions to the Regulator in relation to the Regulator's powers under subsection (3).

Note 1: For variation and revocation, see subsection 33(3) of the Acts Interpretation Act 1901.

Note 2: Section 42 (disallowance) and Part 6 (sunsetting) of the Legislative Instruments Act 2003 do not apply to the direction (see sections 44 and 54 of that Act).

(5) The Regulator must comply with a direction under subsection (4).

(1) Clause 2, page 2 (table item 2), omit the table item, substitute:

2. Schedule 1, Parts 1 and 2 A single day to be fixed by Proclamation. However, if the provisions do not commence within the period of 6 months beginning on the day this Act receives the Royal Assent, they commence on the day after the end of that period.

2A. Schedule 1, Part 2A Immediately after the commencement of Part 1 of Schedule 1.

2B. Schedule 1, Part 3 At the same time as the provisions covered by table item 2.

I oppose items 51A and 68A in schedule 1 in the following terms:

(2) Schedule 1, item 51A, page 20 (lines 1 and 2), to be opposed.

(3) Schedule 1, item 68A, page 22 (lines 12 to 15), to be opposed.

Amendment (4) relates to a strategic reserve. The aim of this amendment is to create a strategic reserve of international emissions units to assist Australia in meeting our international obligations. The reserve would be capped at $500 million, and purchases could only be made under it if the minister directs the regulator to do so. Before making such a direction, the minister would have to take certain matters into consideration, including the current levels of domestic abatement, Australia's international obligations and value for money.

I note that I do not have support for this amendment from the government. I am very disappointed that the government has taken what I consider to be an ideological opposition to this proposal, because I believe it would be incredibly beneficial in both economic and environmental terms. This proposal is widely supported across a number of different industries for different reasons, by both business and environmental groups. Such a reserve has the potential to enable Australia to aim higher than the current incredibly modest and unambitious five per cent target by 2020. Alternatively, it could allow us to reach the same target with less impact on our higher emitting sectors. It could also act as part of the 'make good' provisions in regard to project contracts. For example, if a project were not able to achieve its required abatement levels, it could purchase credits from the reserve to offset this. Alternatively, large emitters subject to baselines could do the same thing to reduce their net emissions.

I say respectfully that it is contradictory and short-sighted for the government to refuse support for this measure. I note that business leaders such as Innes Willox from the Australian Industry Group strongly support this particular amendment. I know the government's position, but I am not sure what the opposition or the Australian Greens would do in respect of this.
But, if it does not get through, we will live to fight another day, because I think it is actually good public policy.

Senator CORMANN (Western Australia—Minister for Finance) (23:43): I thank Senator Xenophon for his contribution. As he has rightly indicated, the government will not be supporting these amendments, essentially for the reasons that I outlined at the beginning of this debate in answers to his earlier questions. The government is committed to deploy 100 per cent of available resources to the emission reduction effort here in Australia domestically. As a matter of policy, we are not prepared to send a proportion of those resources into international permits from overseas.

Senator SINGH (Tasmania) (23:43): Thank you, Senator Xenophon. We know that the experts at RepuTex have worked out that the ERF will only deliver 30 per cent of Australia's emissions reduction target of five per cent on 2000 levels by 2020, so this amendment, by my reading, is designed to allow some flexibility for companies to ensure they meet their baseline obligations or their obligations under the ERF should they be successful. Would the strategic reserve help us to reach our five per cent target in that sense?

Senator XENOPHON (South Australia) (23:44): The direct answer is yes. It just means it would take a bigger domestic abatement effort. That is the straightforward answer. That is why groups such as the Australian Industry Group—AiG—and environmental groups want this strategic reserve. The previous scheme, the former government's scheme, allowed purchases of international credits for up to 50 per cent—which I thought was quite defensible as well. I thought this was a reasonable compromise, but unfortunately the government is not supporting it.

Senator MILNE (Tasmania—Leader of the Australian Greens) (23:45): The Greens will be supporting this amendment because everybody knows that Direct Action cannot and will not meet even a miserly five per cent emissions reduction target by 2020, let alone anything higher later. What this does is set aside some money so that, in the event we are not achieving the target, overseas permits can be bought. There is quite a long history with overseas permits. With former Prime Minister Rudd's Carbon Pollution Reduction Scheme, there was no restriction at all on overseas permits. It could have been 100 per cent if they had wanted to do that. There was no restriction at all. The Greens pointed that out at the time as a real weakness in the scheme—because we wanted to drive domestic change. We wanted to drive domestic abatement and transformation here.

Under the clean energy package, we negotiated with the government and ended up with a limit of 50 per cent on overseas permits. However, within that, only 12½ per cent could be from CERs. The CERs are the cheap permits that are of lesser quality, in many cases, than the permits provided by, say, the EU. The current price of a CER permit is 22c. You can see why a lot of companies would prefer to buy overseas permits than invest in abatement at home—it is an awful lot cheaper to buy the CER permits. If you were to buy EU permits, their current price is about $8.90, as opposed to that 22c. That is why the Greens said that, if you were going to allow 50 per cent of your target to be met by overseas permits, you needed to restrict the CERs.

The quality of permits is an issue for me, but fundamentally the question is: do you think setting aside some money for the purpose of purchasing overseas permits is a good idea? If you were getting close to 2020 and you were nowhere near your target, having such a reserve
would give you the opportunity to meet your target through such purchases. The key thing from my point of view is that any such permits be of a sufficiently high standard that we can be sure that they represent genuine abatement rather than just some cheap and dodgy permits that have been part of the Clean Development Mechanism, or CDM. It has taken a long time to get rigour into that system and that is why I would want to restrict CER permits. But we support the principle of setting aside a fund.

Senator XENOPHON (South Australia) (23:47): I will just address Senator Milne's very legitimate points. The amendment foreshadows that the permits that can be purchased have to be prescribed in the legislations—with standards being protected. So I think the amendment does address Senator Milne's issue. The concern about dodgy CERs from the CDM is a legitimate one. To put this amendment in a broader context, this amendment has the potential to assist companies to meet their commitments, but the main aim is to get the government to purchase international credits in order to ensure that we reach our target as effectively as possible. That is what the amendment is about.

The CHAIRMAN: Even though the amendments have, by leave, been moved together, I need to put them in two separate questions. The first question is that amendments (4) and (1) on sheet 7586 be agreed to.

Question negatived.

The CHAIRMAN: The next question is that items 51A and 68A of schedule 1 stand as printed.

Question agreed to.

Senator MILNE (Tasmania—Leader of the Australian Greens) (23:49): by leave—The Greens oppose Schedule 1 in the following terms:

1 Schedule 1, item 55, page 20 (lines 13 to 15), to be opposed.
2 Schedule 1, item 58, page 20 (lines 25 to 27), to be opposed.
3 Schedule 1, item 85, page 27 (lines 5 and 6), to be opposed.
4 Schedule 1, item 92, page 28 (lines 22 and 23), to be opposed.
7 Schedule 1, items 147 and 148, page 40 (lines 8 to 10), to be opposed. [protection of native forests]

I move Australian Green amendments (5) and (6) on sheet 7612:
5 Schedule 1, item 105, page 30 (line 22), omit ", (j)".
6 Schedule 1, item 108, page 32 (line 22), omit "(6),".

The Greens oppose schedule 1 in the following terms:

This relates to the protection of native forests. When we designed the Carbon Farming Initiative, it was critical to the Greens that no Carbon Farming Initiative project could be registered if it involved the harvesting or the clearing of a native forest or the use of materials obtained as a result of clearing or harvesting a native forest. In other words, it was a prohibition on getting carbon farming permits for projects that involved the destruction of native forests or the use of native forest products. That was for a very good reason, and the reason was that, right around the country, native forest logging is no longer viable. Woodchips are not able to be sold on the international market because nobody wants to buy woodchips from native forests anymore.
So the native forest industry is desperate to get up forest furnaces, which would justify going in and logging areas and using what would have otherwise been exported as woodchips to feed into a forest furnace and generate electricity from it. Of course, it is matched by the government's intention—or what it tried to do with the Warburton review—to change the renewable energy target to allow for giving certificates for energy generated from the burning of native forests. So it would be a double whammy of a subsidy from the government—first of all, to subsidise logging of native forests with the permits for a Carbon Farming Initiative project, and then the certificates under the renewable energy target to give them a second bite at the cherry.

We prohibited the issuing of certificates under the renewable energy target for energy from burning native forests, and now we stand here absolutely opposed to the government removing this prohibition. They are removing this prohibition so it will now read: 'Demonstrating that a project does not involve harvesting or clearing of native forest will no longer be a requirement for project approval.' It is a complete reverse, and the excuse is: 'Potential adverse impacts will be considered when methodologies are approved.' Well, we have seen under EPBC what happens with a complete failure to take into account the adverse impacts. The minister, in this legislation, has extraordinary discretionary powers. I would not for one moment think this was going to be helpful to me in protecting native forests. That is why we had the prohibition in there in the first place, and we want the prohibition protected. That is why I am moving these amendments. I will be seeking a division on this because it is a fundamental matter for us to protect native forests. We will not allow this prohibition to be gone, nor will we ever agree to renewable energy certificates being issued for energy generated from the burning of native forests.

Senator CORMANN (Western Australia—Minister for Finance) (23:53): The government rejects these amendments. The Greens amendments continue a number of provisions from the existing Carbon Farming Initiative which unduly restrict the crediting available to projects that avoid the clearing or harvesting of native forest known as native forest protection projects. They apply a 'one size fits all' approach, when this should be determined relative to the types of projects that are actually put in place on the ground. The approach in the government's bill to dealing with adverse impacts on the environment, like possible clearing of native forest, is more comprehensive, transparent and cost-effective than is proposed by these amendments. It retains the current negative list, which already excludes the planting of trees on land that has been recently cleared of native forest. The minister must also consider any adverse environmental impacts arising from projects when he approves methods setting out the conduct of Emissions Reduction Fund projects. The Greens' approach, in the government's judgement, is to apply an ideological blanket restriction in the act, rather than look at the real policy and environmental issues which are at stake—specifically that native forest waste should be able to be used where it is for environmental benefit and it is sensible and economic to do so. This actually could help create more jobs, in particular in the senator's home state of Tasmania.

Senator SINGH (Tasmania) (23:54): I want to ask Senator Cormann what sorts of projects are envisaged by the government as part of a program of native forest ERF initiatives. Specifically, can the government rule out the use of organic matter from forests as fuel or as part of a carbonisation project?
Senator CORMANN (Western Australia—Minister for Finance) (23:54): Again, this is where I have to say—similar to what was said in relation to a comment by Senator Milne before—that clearly the Labor Party does not understand about how the market operates either. The government is setting the framework, and we are not going to pre-empt what sorts of projects come forward. We will let the market drive innovation. We will let businesses across Australia deploy their creative and innovative juices to come up with the best possible projects that will help us achieve the best possible emissions reduction at the lowest possible cost through a genuine market based mechanism. So I am not going to start playing the rule-in rule-out game. There are appropriate safeguards in place in the legislation, consistent with what I have indicated in my answer to Senator Milne's question. The framework is there for all to see in the legislation. I am not going to pre-empt what projects will come forward from the market.

Senator MILNE (Tasmania—Leader of the Australian Greens) (23:56): It is as I expected: it is always a discussion about waste. These start out as magnificent forests. The loggers go in, take out some of the trees and then want to clear the rest and sell them as woodchips. Then the woodchips finally become the driver of the industry. Native forest logging has depended on export woodchipping. Export woodchipping is over and now we will have forest furnaces as the driver of destroying Australia's biodiversity and destroying whole water catchments. It is just an appalling situation. It does not matter whether you are talking about Toolangi and the area that should be in the Great Forest National Park in Victoria or whether you are talking about Tasmanian forests.

We had those forests protected in Tasmania. The Prime Minister, together with the Tasmanian Premier Will Hodgman, have wound back the protection of those forests, have ripped up the protection and now want subsidies from the Commonwealth to log those forests. We will not give any more money to the logging of native forests. It has been an industry propped up by hundreds of millions of dollars for a long time and it has to stop. We have to protect these forests.

If you are actually serious about the climate, one of the things that you do is protect the carbon in the landscape. Forests are an ideal way to protect not only carbon as stores but also biodiversity and water. That is why this amendment is particularly important to maintain the prohibition.

Senator XENOPHON (South Australia) (23:57): Could the minister confirm that methodologies generally are a disallowable instrument?

Senator CORMANN (Western Australia—Minister for Finance) (23:57): Yes.

Senator XENOPHON (South Australia) (23:58): For that reason, I will not support this amendment, because this place—the Senate or either house of parliament—can disallow the methodology that will allow, for instance, the wholesale use of native forests. If it is waste as such or whatever is allowed under the methodology, that would be a different matter. But I believe there is still a mechanism for parliamentary scrutiny and if necessary disallowance of any irresponsible application of the methodology.

The CHAIRMAN: The question is that items 55, 58, 85, 92, 147 and 148 of schedule 1 stand as printed.
The committee divided. [00:03]
(The Chairman—Senator Marshall)

<table>
<thead>
<tr>
<th>Ayes</th>
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AYES

Bilyk, CL          Birmingham, SJ
Bullock, J.W.      Bushby, DC (teller)
Cameron, DN        Canavan, M.J.
Colbeck, R         Conroy, SM
Cormann, M         Dastyari, S
Day, R.J.          Edwards, S
Fawcett, DJ        Gallacher, AM
Ketter, CR         Lambie, J
Lazarus, GP        Leyonhjelm, DE
Lines, S           Macdonald, ID
Madigan, JI        Marshall, GM
McEwen, A          McKenzie, B
McLucas, J         Moore, CM
Muir, R            O'Neil, DM
O'Sullivan, B      Parry, S
Polley, H          Ronaldson, M
Ruston, A          Singh, LM
Sinodinos, A       Sterle, G
Urquhart, AE       Wang, Z
Williams, JR       Xenophon, N

NOES

Di Natale, R       Hanson-Young, SC
Ludlam, S          Milne, C
Rhiannon, L        Rice, J
Siewert, R (teller) Whish-Wilson, PS
Wright, PL         

Question agreed to.

The CHAIRMAN (00:05): The question is that amendments (5) and (6) on sheet 7612 be agreed to.

Question negatived.

Senator LAMBIE (Tasmania—Deputy Leader and Deputy Whip of the Palmer United Party in the Senate) (00:05): by leave—The Palmer United Party opposes item 65, 161 and 267 of schedule 1 in the following terms:

1. Schedule 1, item 65, page 22 (lines 1 to 3), to be opposed.
2. Schedule 1, item 161, page 52 (lines 12 and 13), to be opposed.
3. Schedule 1, item 267, page 73 (lines 22 and 23), to be opposed.

I also move amendments (2), (4), (5), and (7) on sheet 7607 together:

2. Schedule 1, page 29 (after line 12), after item 96, insert:
96A Before paragraph 23(1)(h)
Insert:
(ga) if:
(i) the project is an area-based offsets project; and
(ii) the project area, or any of the project areas, for the project is covered by a regional natural resource management plan;
be accompanied by a statement about whether the project is consistent with the plan; and

(4) Schedule 1, page 52 (before line 14), before item 162, insert:
161A After paragraph 83(1)(a)
Insert:
(aa) the project is an area-based offsets project; and

(5) Schedule 1, page 71 (after line 11), after item 246, insert:
246A Before paragraph 168(1)(k)
Insert:
(ja) if:
(i) the project is an area-based offsets project; and
(ii) the project area, or any of the project areas, is covered by a regional natural resource management plan;
whether the project is consistent with the plan; and

(7) Schedule 1, page 75 (before line 15), before item 279, insert:
278B After section 255
Insert:
255AA Request for review of methodology determinations
(1) A person may, by written notice given to the Emissions Reduction Assurance Committee, request the Committee to review one or more methodology determinations under paragraph 255(e).
(2) A request under subsection (1) must be accompanied by a statement that sets out:
(a) the reasons why the methodology determinations should be reviewed; and
(b) if there are any inconsistencies between the methodology determinations and the offsets integrity standards—an explanation of those inconsistencies.

(3) If the Emissions Reduction Assurance Committee receives a request under subsection (1), the Committee must consider whether to undertake a review in response to the request.

These amendments seek to ensure that land based projects under the Emissions Reduction Fund must demonstrate how their project is consistent with relevant natural resource management—NRM—plans. Natural resource management plans are important as they can assist landholders to manage their land effectively and provide information to the community about projects.

It also provides for members of the public to request Emissions Reduction Assurance Committee review methods and that the ERAC must consider these requests. The amendments will provide additional assurance to stakeholders that methods continue to be consistent with the offsets integrity standards and to generate genuine abatement.
Senator Cormann (Western Australia—Minister for Finance) (00:07): I thank Senator Lambie for moving the amendments and I also on this occasion, as we are dealing with the first amendments by the Palmer United Party, thank the Palmer United Party again for their constructive approach in engaging with the government in an attempt to find common ground. In fact, arguably, the Palmer United Party has achieved more for the environment in three months than the Greens have in all their years in the Senate, in particular under their current leader.

These amendments reinstates the requirement from the Carbon Farming Initiative, and the government supports these amendments proposed by the Palmer United Party.

Senator Milne (Tasmania—Leader of the Australian Greens) (00:08): The Greens support these amendments. This is one that we were going to move ourselves. I am pleased that it is there. When we designed the Carbon Farming Initiative, we wanted to make sure that we did not see again another absolute rort with managed investment schemes that just spread across the landscape with no regard for water catchments or for how it fitted into the NRM plans and led to horrendous debacle around Australia.

It ended up as a huge waste of money and a huge number of those managed investment scheme trees never growing. They were all planted in the wrong places because a whole industry grew up about putting the trees in. No-one cared whether they actually grew or whether they would be harvestable, because it was just a giant rip-off. It is essential that the ability to get permits for planting trees is in conjunction with NRM plans so that you can see that you are not going to take all the water out of that particular catchment or use up agricultural land that might be designated for something better. This whole Carbon Farming Initiative was not meant to be a tree-planting, money-making thing. It was meant to be proper environmental plantings that would be there for a long time. So you would put them in places which had no better productive use, and it would be a restorative biodiversity project consistent with water and other considerations in natural resources management plans. So I am pleased that this is there. We wanted NRM plans put back together with these permits. I support the amendment.

Senator Singh (Tasmania) (00:10): I speak in opposition to this amendment, but in doing so I highlight the fact that the project is covered by regional national resource management plans.

Honourable senators interjecting—

Senator Singh: You would be aware, Senator Lambie, that this government has absolutely gutted natural resource management through the defunding of the National Landcare Program. It has taken some half billion dollars out of the National Landcare Program to put that money into the Green Army initiative.

So it is one thing to raise the importance of regional natural resource management plans, but it is another thing for the government to then defund exactly the same areas of its own policy area—particularly land-care natural resource management. A whole enquiry has been going on very much into this. We have heard from the exports in the NRMs right across the country and we have not heard one piece of evidence from them that is in favour of what the government has done in the budget in defunding the Landcare Program and the effects that that is going to have on natural resource management.
I ask Senator Lambie a question in relation to her amendment, because it specifically talks a number of times—I want to be clear that I understand what this means—about area based offsets projects. It talks about it in schedule 1 on page 1 and on page 52. If you could provide some clarity about your meaning in relation to that, that would be most beneficial.

Senator IAN MACDONALD (Queensland) (00:12): I found the explanation by Senator Lambie quite clear. I do not need to clarify that. I wanted briefly to help some of the Labor people to get to their seven o'clock goal, it seems, to say a few words.

We will perhaps see just how genuine the Labor Party are. There are calling votes on every single amendment just to make sure they have the numbers right. Can I just tell Senator Singh what people have indicated in this chamber. The Greens have said they support it; that is 10 votes. Palmer United Party clearly support it because they have moved it, so that is four votes.

The CHAIRMAN: Senator Macdonald, there is a question before the chair. I would ask you to be relevant to the question before the chair.

Senator IAN MACDONALD: I am; I am talking—

The CHAIRMAN: In saying that, I have been consistent in this through this debate. I ask you to be directly relevant to this question.

Senator IAN MACDONALD: I am actually supporting Senator Lambie's amendment, which I think I am entitled to do, and indicating that I am pleased that the 10 members of the Greens party, the four members of the Palmer United Party and the 33 members of the coalition—a total of 47—have indicated their support for it. I am pleased about that, because I want to speak in favour of the motion. In case Senator Singh cannot count, 47 is well above 50 per cent of the members here, so she does not need to call a division on this one. It is clearly a matter that the majority of senators support.

Senator CORMANN (Western Australia—Minister for Finance) (00:14): I have to rise again, just to make a political point in relation to this amendment. What Senator Singh on behalf of the Labor Party is indicating to the chamber is that she is against legislation that the Labor Party legislated in government. So the Palmer United Party, engaging with the government constructively about how our legislation can be improved and together with the Australian Motoring Enthusiasts Party and also senators Xenophon and Madigan on this occasion, took the lead with these amendments and convinced the government to keep a feature of Labor's legislation. The government has said, yes, in the interests of getting a good outcome, in the public interest, in the national interest, making sure that we can achieve emissions reductions here in Australia as cost effectively as possible, you have convinced us to keep a feature of the previous Labor government's legislation. And the Labor Party is now saying that they are going to vote against it.

That is how ridiculous things have become under the leadership of Mr Shorten. This is opposition for opposition's sake. This is politics above good sense. This just shows the attitude that the Labor Party has taken to this legislation. It is not actually focused on the issues at hand, not focused on the public policy. Not so long ago you were in this chamber, telling us how this particular provision was so important. Now, just because the Palmer United Party is moving to protect your provisions, because we are supporting it you are saying you are voting against it. This is just not serious, quite frankly.
In response to the specific question that Senator Singh asked about why there is this change in relation to area based projects versus other projects: under the current Carbon Farming Initiative, all projects are area based.

Senator CORMANN: I am speaking on behalf of the government. I understand that you are trying to play a political game. I understand the game you are trying to play. But I am using the prerogative as the minister here with responsibility for dealing with legislation to provide an explanation in response to the question you have asked. You can get all antsy about that and try to play politics in the chamber; but maybe, if you were genuinely interested in the content of the answer, you would listen to the answer that I am providing to this question.

Under the current Carbon Farming Initiative, all projects are area based. Under the Emissions Reduction Fund, some projects will not be area based—in other words, energy efficiency related projects. Therefore, this only applies where it should, which of course is a rational, logical, consequential amendment to take into account that particular circumstance.

Senator LAMBIE (Tasmania—Deputy Leader and Deputy Whip of the Palmer United Party in the Senate) (00:17): The amendment stands as it is read. It is clear enough. I am quite sure we know that. The senators have had all day to approach me. The amendments have been out all day. We all know what they are. I think a lot of people are starting to get tired in here. But she has had all day to approach me. There have been no phone calls or anything else, so I think we should just move it along.

Senator XENOPHON (South Australia) (00:17): I indicate my support for these amendments. I think it is sensible and very useful to take into account regional natural resource management plans in the context of how the Emissions Reduction Fund would be spent. I think it enhances the scheme, and for those reasons I support it.

The CHAIRMAN: Even though all the amendments have been moved together, I will put them into different questions. The first question is that items 65, 161 and 267 of schedule 1 stand as printed.

Question negatived.

The CHAIRMAN: The next question is that Palmer United Party amendments (2), (4), (5) and (7) on sheet 7607 be agreed to.

Question agreed to.

Senator LAZARUS (Queensland—Leader of the Palmer United Party in the Senate) (00:18): by leave—I move Palmer United Party amendments (1) to (6) on sheet 7604 together:

(1) Schedule 1, page 33 (after line 10), after item 114, insert:

114A After section 27

Insert:

27A Suspension of processing of applications for declarations of eligible offsets projects

Order

(1) The Emissions Reduction Assurance Committee may, by legislative instrument, order that, if:

(a) an application is made under section 22 during a specified period; and

---
(b) the application relates to an offsets project that is covered by a specified methodology determination;

the Regulator must not:

(c) consider the application during that period; or

(d) make a decision on the application during that period.

(2) A period specified in an order under subsection (1):

(a) must start at the commencement of the order; and

(b) must not be longer than 12 months.

(3) The Emissions Reduction Assurance Committee must not make an order under subsection (1) that relates to a methodology determination unless the Committee is satisfied that there is reasonable evidence that the methodology determination does not comply with one or more of the offsets integrity standards.

(4) Before making an order under subsection (1), the Emissions Reduction Assurance Committee must inform the Minister of the Committee's proposal to make the order.

**Compliance with order**

(5) The Regulator must comply with an order under subsection (1).

**Timing of decision on application**

(6) If an application made under section 22 is or was covered by an order under subsection (1) of this section, subsection 27(14) does not apply to the application.

Note: Subsection 27(14) deals with the timing of decisions on applications.

(2) Schedule 1, item 204, page 59 (after line 23), after subsection 106(4A), insert:

(4B) The Minister must not make a methodology determination if the Emissions Reduction Assurance Committee has advised the Minister under subsection 123A(2) that the determination does not comply with one or more of the offsets integrity standards.

(3) Schedule 1, item 210, page 61 (before line 21), before subsection 114(8), insert:

(7B) The Minister must not vary a methodology determination if the Emissions Reduction Assurance Committee has advised the Minister under subsection 123A(2) that the varied determination does not comply with one or more of the offsets integrity standards.

(4) Schedule 1, item 210, page 61 (line 30), after "(7)", insert ", (7B)".

(5) Schedule 1, item 218, page 63 (line 23), omit "standard set out in paragraph 133(1)(a)", substitute "standards".

(6) Schedule 1, item 218, page 63 (line 28), omit "standard set out in paragraph 133(1)(a)", substitute "standards".

**Senator CORMANN** (Western Australia—Minister for Finance) (00:19): I thank Senator Lazarus. These amendments allow the Emissions Reduction Assurance Committee to suspend the methodology for up to 12 months to stop new projects being approved. The government supports this amendment proposed by the Palmer United Party.

**Senator SINGH** (Tasmania) (00:19): I understand that the Department of the Environment is working on methodologies nominated by PUP as priorities, and my understanding is that PUP have prioritised the following: early finishing of livestock, building lighting, street lighting, energy efficiency for low-income households, transport emissions reductions, and verified carbon standard private native forest management. Can you tell me why these were chosen and how long it will be before they will be ready to take effect?
Senator MILNE (Tasmania—Leader of the Australian Greens) (00:20): I am interested to hear the answer to that question as well, but we will come back to it again in a moment.

The Greens will be supporting this amendment because it is an improvement on what has been proposed to date. It is important that ERAC can suspend an existing methodology for up to 12 months if it does not meet the integrity standards. This issue is, when you have a methodology put up and it does not meet the integrity standards—if it is not additional; if it does not have rigour—it can be suspended while they have a look and see what is going on and what they need to do to fix it. Secondly, it prevents a methodology being created or varied if the ERAC is of the view that it does not comply with the integrity standards. This is about trying to maintain some rigour.

I have to say that I am concerned about the process as it currently is. In the way that the bill is now written, the minister has extraordinary discretion. He can go along and say, 'I want a methodology on this, that and something else.' You have to make sure that that methodology has credibility and integrity, because this also says that all of these projects must comply with the rules under the Kyoto Protocol. Therefore, you have to make sure that they stand up to auditing and that they are actually real. Otherwise, you are going to end up in a complete mess. So I do support better integrity standards. I thank Senator Singh for telling us that there was an agreement, obviously, for a number of methodologies to be put up. Some of these have already been underway for some time and obviously the street lighting is part of it. I am interested to know that too. I support it.

Senator CORMANN (Western Australia—Minister for Finance) (00:22): The reason that the government supports these amendments is that they are part of the agreement that we have reached with the Palmer United Party. This will help us achieve the passage of a very firm commitment that we took to the last election, which is the flip side of the commitment that we made to get rid of the carbon tax. We got rid of the carbon tax. We said that we would replace it with a superior policy, a policy to reduce emissions in Australia by taking direct, sensible and effective action. That is what we are doing. In order to ensure the passage through this chamber, given that the government does not have the majority, the government is very rational about these things. We know that in this chamber we have 33 senators, and that if we want to achieve anything we need to convince and persuade at least six others to join in with us. This is a matter that was important to the Palmer United Party and we have been able to reach a consensus. We have been able to find common ground. Other senators in the chamber have indicated that they are supportive of this approach and on that basis we support it.

The CHAIRMAN: The question is that amendments (1) to (6) on sheet 7604 be agreed to. Question agreed to.

Senator WANG (Western Australia—Palmer United Party Whip in the Senate) (00:24): by leave—I move Palmer United Party amendments (1) to (4) on sheet 7606:

(1) Schedule 1, item 152, page 43 (line 6), at the end of the heading to subsection 69(2), add "or designated savanna project".

(2) Schedule 1, item 152, page 43 (line 7), after "sequestration offsets project", insert "or a designated savanna project".

(3) Schedule 1, item 152, page 43 (line 14), after "emissions avoidance offsets project", insert "(other than a designated savanna project)".
(4) Schedule 1, item 152, page 46 (line 16), omit “7”, substitute “25”.

Senator SINGH (Tasmania) (00:24): I would like to know if you could outline the specific, special circumstances that are associated with savanna projects and how the finance will work for this extension of contracting period.

Senator CORMANN (Western Australia—Minister for Finance) (00:24): I might start by indicating the government's position. This amendment grants savanna projects a 25-year crediting period instead of a seven-year crediting period. This is an amendment which will be strongly supported by Indigenous stakeholders. The government supports the amendment proposed by the Palmer United Party to give savanna fire projects longer crediting periods under the Carbon Farming Initiative Amendment Bill because crediting periods are the period of time over which projects can receive credits, known as Australian carbon credit units, in exchange for emissions reductions that result from the project.

Indigenous groups have been concerned that seven-year crediting periods created uncertainty for their savanna fire projects. About half of all the savanna fire projects are implemented by Indigenous groups, who changed their fire management practices to reduce emissions from fires and reduce the amount of vegetation that is burned. At present, there are 20 savanna fire projects approved under the Carbon Farming Initiative in high-rainfall areas which have been issued half a million credits. The government is soon to release some new rule sets, known as methods, to allow for a broader range of these projects to occur in other parts of the country.

Savanna fire management projects are important sources of employment for remote Indigenous groups. Indigenous groups need the support of the Emissions Reduction Fund and the incentive provided by the bill to make the projects financially viable. The government accepts, therefore, that longer crediting periods are appropriate for these projects, as they would not go ahead without the financial support provided by the fund. In addition, Indigenous groups will benefit from the greater certainty that longer crediting periods provide when planning and implementing their savanna fire reduction projects.

Senator MILNE (Tasmania—Leader of the Australian Greens) (00:26): I am very pleased that the expectation we had when we developed the Carbon Farming Initiative, that we would get a methodology for savanna burning and that it would provide good, solid employment opportunities for Aboriginal people in remote communities, has been realised—and that is exactly what has happened. I note that, when we debated the Carbon Farming Initiative, we got very little support for it from the coalition, then in opposition, at the time. All sorts of wild claims were made about what this would do and I am delighted that what we said would happen has happened. The Greens will support whatever we can to make sure that the savanna-burning projects remain viable and not only remain good for country but also provide that permanent source of employment in remote communities.

The TEMPORARY CHAIRMAN (Senator Bernardi): The question is that the amendments (1) to (4) on sheet 7606 be agreed to.

Question agreed to.

Senator MILNE (Tasmania—Leader of the Australian Greens) (00:28): I move Australian Greens amendment (1) on sheet 7592:
(1) Schedule 1, item 5, page 6 (line 22), omit "passes the fit and proper person test", substitute “is a recognised offsets entity. A recognised offsets entity must be a fit and proper person (see section 64)”. By leave—the Greens oppose division 1, items 382 to 388 and part 3 of schedule 1 in the following terms:

(2) Schedule 1, Division 1, page 14 (line 2) to page 90 (line 24), to be opposed.

(3) Schedule 1, items 382 to 388, page 90 (line 26) to page 93 (line 8), to be opposed.

(8) Schedule 1, items 388B to 399, page 94 (line 22) to page 106 (line 32), to be opposed.

(9) Schedule 1, Part 3, page 107 (line 1) to page 120 (line 12), to be opposed.

This comes to the issue of the Greens' position with regard to this legislation. We are very proud of the Carbon Farming Initiative and the work that it has done—the 160-odd projects that have rolled out around Australia. We know that they are employing more than 500 people around the country, particularly in rural and regional areas, and, as I just said a moment ago, particularly in remote Aboriginal communities. The breadth of these projects is quite extraordinary—at piggeries and abattoirs, for example. They are really providing opportunities for people in rural areas to improve their practices and bring down greenhouse gas emissions. It has been a really positive project.

The problem here was that, when the government decided to abolish the carbon price, it meant that all of these projects, which were creating permits, had no market to sell them into. They needed to be together with the carbon price because then the price was there, they could create their project and there was a guaranteed market for the permits. Once the government abolished the carbon price and the emissions trading scheme, there was no market, so, unless there is some arrangement made, those projects will all die and those jobs will go. The Greens wanted to make sure that we protected those jobs and those projects but indicated that we do not support expanding the Emissions Reduction Fund beyond the Carbon Farming Initiative, so we do not support the rest of the government's bill.

The effect of these amendments would be to support the retention of the Carbon Farming Initiative, but it would cut that off from the rest of the legislation. That is the idea: to basically express our support for those existing projects and their maintenance. It also goes to things like waste landfill gas, which again has been important around the country in not only bringing down emissions but creating jobs. That is the purpose of these amendments: to support the existing Carbon Farming Initiative projects and link them to the Emissions Reduction Fund but cut it off there and not support the rest of the government's ill-defined, hopeless scheme, which has no rigour associated with it at all.

Senator CORMANN (Western Australia—Minister for Finance) (00:31): The Greens' proposed amendments seek to import existing regulations about restricted projects into the act. This is unnecessary, which is why the government does not agree to these amendments. Importantly, maintaining the current regulatory approach will retain flexibility to update the list quickly if needed. The Senate already has parliamentary oversight and an opportunity to disallow regulations. Accordingly, these amendments are both unnecessary and unduly restrictive in keeping technical matters up to date.

The TEMPORARY CHAIRMAN: The question is—and I am going to deal with amendment (1) on sheet 7592—that the amendment be agreed to.

Question negatived.
The TEMPORARY CHAIRMAN: Now I am going to the question that division 1, items 382 to 386, 387 and 388 and part 3 of schedule 1 stand as printed.

Question agreed to.

Senator MILNE (Tasmania—Leader of the Australian Greens) (00:32): I am disappointed that we could not split the bill in the way that I was suggesting, but never mind. It is obvious that only the Greens thought that that was the appropriate way of proceeding, but that is fine. I seek leave to move amendment (8) on sheet 7592 and amendments (4) to (7) on sheet 7592 together.

Leave granted.

Senator MILNE: I move:

(4) Schedule 1, item 388A, page 93 (line 30), omit "new law", substitute "Carbon Credits (Carbon Farming Initiative) Act 2011".

(5) Schedule 1, item 388A, page 94 (line 6), omit "new law", substitute "Carbon Credits (Carbon Farming Initiative) Act 2011".

(6) Schedule 1, item 388A, page 94 (line 8), omit "and subsection 27(4A) of the new law do", substitute "of the Carbon Credits (Carbon Farming Initiative) Act 2011 does".

(7) Schedule 1, item 388A, page 94 (line 19), omit "new law", substitute "Carbon Credits (Carbon Farming Initiative) Act 2011".

We also oppose schedule 1 in the following terms:

(8) Schedule 1, items 388B to 399, page 94 (line 22) to page 106 (line 32), to be opposed.

These amendments would also bring into this the Verified Carbon Standard projects. The Verified Carbon Standard is a voluntary greenhouse gas program. Only a small number of forest management projects were approved under the Verified Carbon Standard. Following Australia's decision to count forest management towards its emissions reduction target, the Verified Carbon Standard determined that these projects could no longer generate credits under its program.

This would therefore enable Australian based projects approved under the Verified Carbon Standard to transition to the Emissions Reduction Fund, which would enable these projects, which involve the protection of native forests on private land, to continue to deliver additional emissions reductions and other biodiversity benefits. The particular projects that I am aware of—there may be others around the country, because there are small number of them—are a number on private land in Tasmania. There has been a lot of work done, particularly with farmers in the Midlands in Tasmania, to put together these projects, and I do not want to see them stranded. That is why I am moving these amendments.

Senator CORMANN (Western Australia—Minister for Finance) (00:34): The Greens' proposed amendments would remove key elements of the Emissions Reduction Fund architecture, which is why the government does not support these amendments.

The TEMPORARY CHAIRMAN: I am going to deal with these questions separately. The first is that Australian Greens amendments (4) to (7) on sheet 7592 be agreed to.

Question negatived.

The TEMPORARY CHAIRMAN: The question is that items 338B to 392, 393, and 394 to 399 of schedule 1 stand as printed.
Question agreed to.

**Senator MILNE** (Tasmania—Leader of the Australian Greens) (00:35): I move Australian Greens amendment (1) on sheet 7609:

1. Schedule 1, page 120 (after line 12), at the end of the Schedule, add:

   **Part 4—Amendments relating to excluded offsets projects**

   *Carbon Credits (Carbon Farming Initiative) Act 2011*

   548 **Section 5 (definition of excluded offsets project)**

   Omit "section 56", substitute "sections 56, 56B and 56C".

   549 **Subsection 27(4) (note 3)**

   Omit "section 56", substitute "sections 56, 56B and 56C".

2. **550 After Division 12 of Part 3**

   Insert:

   **Division 12A—Other excluded offsets projects**

   **56A Definitions**

   In this Division:


   Note: The report is, in 2014, accessible at www.ipcc.ch.

   **CFI rainfall map** means the map:

   (a) that shows long-term average annual rainfall; and

   (b) that uses data that is:

   (i) collected by the Commonwealth Bureau of Meteorology for the period from at least 1921 to 2010; and

   (ii) processed by the Department; and

   (c) published on the Department's website; and

   (d) as in force from time to time.

   **clearing** means the conversion, caused by people, of native forest to cropland, grassland or settlements (within the meaning of "cropland", "grassland" and "settlements" in the 2006 IPCC Guidelines for National Greenhouse Gas Inventories).

   **consent** means approval to commence clearing or conversion to a plantation, required by Commonwealth, State or Territory law, issued by the relevant Commonwealth, State, Territory or local regulatory authority responsible for giving the approval.

   **dryland salinity** means a build-up of salt in soil occurring on land not subject to irrigation.

   **environmental planting** means a planting that consists of species that:

   (a) are native to the local area of the planting; and

   (b) are sourced from seeds:

   (i) from within the natural distribution of the species; and

   (ii) that are appropriate to the biophysical characteristics of the area of the planting; and

   (c) may be a mix of trees, shrubs, and understorey species where the mix reflects the structure and composition of the local native vegetation community.
forest means land of a minimum area of 0.2 of a hectare on which trees:
   (a) have attained, or have the potential to attain, a crown cover of at least 20% across the area of land; and
   (b) have reached, or have the potential to reach, a height of at least 2 metres.
known weed species means a plant species which:
   (a) is on the Weeds of National Significance list or another list produced by the Australian Government for the purpose of identifying weeds; or
   (b) is declared under any of the following Acts:
      (i) the Noxious Weeds Act 1993 of New South Wales;
      (ii) the Catchment and Land Protection Act 1994 of Victoria;
      (iii) the Land Protection (Pest and Stock Route Management) Act 2002 of Queensland;
      (iv) the Plant Diseases Act 1914 of Western Australia;
      (v) the Agriculture and Related Resources Protection Act 1976 of Western Australia;
      (vi) the Natural Resources Management Act 2004 of South Australia;
      (vii) the Weed Management Act 1999 of Tasmania;
      (viii) the Pest Plants and Animals Act 2005 of the Australian Capital Territory;
      (ix) the Weeds Management Act 2001 of the Northern Territory.
National Water Commission has the meaning given by section 4 of the National Water Commission Act 2004.
National Water Initiative has the meaning given by section 4 of the National Water Commission Act 2004.
permanent planting means a planting:
   (a) that is not harvested other than:
      (i) for thinning for ecological purposes; or
      (ii) to remove debris for fire management; or
      (iii) to remove firewood, fruits, nuts, seeds, or material used for fencing or as craft materials, if those things are not removed for sale; or
      (iv) in accordance with traditional indigenous practices or native title rights; and
   (b) that is not a landscape planting.
plantation means a forest established for harvest.
Salinity Guidelines means the guidelines, published on the Department's website and as in force from time to time, to assist project proponents to determine whether the planting of trees is an excluded offsets project for the purposes of a provision of this Act or the regulations.
specified tree planting means the planting of trees in an area that, according to the CFI rainfall map, receives more than 600 mm long-term average annual rainfall.
tree means a perennial plant that has primary supporting structures consisting of secondary xylem.
water access entitlement means an entitlement to water held in accordance with the relevant law in the jurisdiction in which the project area is located.
water interception means the interception of surface water or ground water that would otherwise flow, directly or indirectly, into a watercourse, lake, wetland, aquifer, dam or reservoir.
wetlands are areas of marsh, fen, peatland or water:
(a) that are either temporary or permanent; and
(b) which have water that can be static or flowing, fresh, brackish or salty;
and includes areas of marine water the depth of which at low tide is not more than 6 metres.

56B Other excluded offsets projects
(1) Without limiting section 56, the following kinds of projects are excluded offsets projects for the purposes of this Act:
   (a) a project that involves an activity that:
      (i) was mandatory under a Commonwealth, State or Territory law; and
      (ii) is no longer mandatory because the law was repealed, or amended to be less onerous, after 24 March 2011;
   (b) the planting of a species in an area where it is a known weed species;
   (c) the establishment of a forest under a forestry managed investment scheme for the purposes of Division 394 of Part 3-45 of the Income Tax Assessment Act 1997;
   (d) the cessation or avoidance of the harvest of a plantation;
   (e) the establishment of vegetation on land that has been subject to illegal clearing of a native forest, or illegal draining of a wetland;
   (f) the establishment of vegetation on land that has been subject to clearing of a native forest, or draining of a wetland (that was not an illegal clearing or draining), within:
      (i) 7 years of the lodgement of an application for the project to be declared an eligible offsets project; or
      (ii) 5 years of the lodgement of an application for the project to be declared an eligible offsets project, if there is a change in ownership of the land that constitutes the project area after the clearing or the draining;
   (g) a project that protects native forest on freehold or leasehold land, for which a clearing consent or harvest approval plan was granted on the basis that the clearing or harvesting of the native forest:
      (i) would lead to an environmental improvement or benefit, or would maintain an environmental outcome; or
      (ii) was for fire management purposes.

   (2) Paragraph (1)(a) does not apply to a project which involves an activity that is required to be carried out under a State or Territory law that is made after 24 March 2011 and that implements an agreement between the Commonwealth and a State or Territory Government:
       (a) to establish new reserves or reduce annual native forest harvest; and
       (b) that recognises the potential for carbon offset opportunities for areas protected by the agreement.

   (3) Subparagraph (1)(g)(i) does not apply to a project if:
       (a) the clearing consent or harvest approval plan provides options for vegetation management; and
       (b) the project provides active and on-going management of the project area in accordance with one of those options.

56C Other excluded offsets projects—specified tree planting
(1) Without limiting section 56, specified tree planting is an excluded offsets project unless it is covered by any of subsections (2) to (5) or by subsection (8).
(2) Specified tree planting is not an excluded offsets project if the planting is a permanent planting that is also an environmental planting.

(3) Specified tree planting is not an excluded offsets project if the project proponent demonstrates that the planting contributes to the mitigation of dryland salinity in accordance with the Salinity Guidelines.

(4) Specified tree planting is not an excluded offsets project if the project area is in a region in relation to which the National Water Commission has determined that the commitments by the relevant State or Territory government under the National Water Initiative to manage water interception by plantations have been adequately implemented.

(5) Specified tree planting is not an excluded offsets project if the project proponent holds a water access entitlement that:
   (a) grants or confers an entitlement to water in the project area; and
   (b) relates to either groundwater or surface water, or both, depending on the water resource management arrangements applicable in the project area; and
   (c) is held from the date that is no later than 2 years after the forest is first planted for the duration of the project; and
   (d) provides a long-term average yield, per year, of at least 90% of the volume of water required as an offset, calculated in accordance with the formula in subsection (7).

(6) However, subsection (5) does not apply if the water to which the water access entitlement relates is held, taken, intercepted, stored or used for any purpose other than to offset the water intercepted by the forest.

(7) The volume of water (in megalitres) required as an offset per year for the life of the project is to be calculated using the following formula:

\[ A \times 0.9 + B \times 1.2 + C \times 1.5 + D \times 1.8 + E \times 2.1 \]

where:

- \( A \) is the area (in hectares) of the project area that, according to the CFI rainfall map, receives between 600–700 mm long-term average annual rainfall.
- \( B \) is the area (in hectares) of the project area that, according to the CFI rainfall map, receives between 700–800 mm long-term average annual rainfall.
- \( C \) is the area (in hectares) of the project area that, according to the CFI rainfall map, receives between 800–900 mm long-term average annual rainfall.
- \( D \) is the area (in hectares) of the project area that, according to the CFI rainfall map, receives between 900–1,000 mm long-term average annual rainfall.
- \( E \) is the area (in hectares) of the project area that, according to the CFI rainfall map, receives more than 1,000 mm long-term average annual rainfall.

Note: The figures in the formula are based on the following volumes of water required as an offset per hectare per year in each of the areas of long-term average annual rainfall as indicated by the CFI rainfall map:

- 0.9 ML of water—600-700 mm of rain
- 1.2 ML of water—700-800 mm of rain
- 1.5 ML of water—800-900 mm of rain
- 1.8 ML of water—900-1,000 mm of rain
- 2.1 ML of water—greater than 1,000 mm of rain.

(8) Specified tree planting is not an excluded offsets project if:
(a) the project area is in a region in which it is not possible to obtain a water access entitlement; and

(b) the Regulator, after seeking the advice of the relevant State or Territory agency that manages the water resource and other expert advice as necessary, is satisfied that there is no material impact on water availability, or on the reliability of existing water access entitlements, in or near the project area, for the duration of the project.

(9) However, paragraph (8)(a) does not apply to a project in relation to which it is not possible to obtain a water access entitlement because the relevant catchment is fully allocated.

This is the final amendment of the Australian Greens. It takes the existing negative list and puts it in the legislation, rather than having it stand separate from the legislation. We think it is really important to protect the negative list and that it not be able to just disappear or be amended in a way that anyone might like. We want that negative list—that is, the types of projects that are not eligible for consideration as Carbon Farming Initiative projects—to go into the legislation, rather than have it sit separately. That is the intent of this particular amendment.

Senator CORMANN (Western Australia—Minister for Finance) (00:35): As indicated before in relation to some previous Greens amendments, the effect of this amendment would be to import existing regulations about restricted projects into the act. This is unnecessary. As I have indicated before, maintaining the current regulatory approach will retain flexibility to update the list quickly if needed. The Senate already has the parliamentary oversight and the opportunity to disallow regulations. Accordingly, this amendment is both unnecessary and unduly restrictive in keeping technical matters up to date.

Senator MILNE (Tasmania—Leader of the Australian Greens) (00:36): This is the whole problem. The minister says, 'It allows much more flexibility if it is just regulatory,' and that is our problem with it—that it is very easy for governments to change regulations. Yes, it is disallowable, but having it in regulations means that you can mess around with the negative list. If you have it in the act, any change has to be brought through and debated in a significant way, rather than being able to do it just by regulation.

Senator CORMANN (Western Australia—Minister for Finance) (00:37): Just to be very clear on this, the arrangement that Senator Milne is now criticising is the arrangement that was put in place by the Labor Party and the Greens under the previous government. Senator Milne is suggesting that what the Labor Party and the Greens did when they were in government together was inadequate and that, somehow, now there is a need to change what you did before. In these circumstances, it is important to maintain flexibility to be able to adjust to evolving situations, and the parliament has appropriate oversight in being able to disallow any regulations that are made to give effect to this.

Senator MILNE (Tasmania—Leader of the Australian Greens) (00:37): I clarify that the Greens have wanted this in the legislation all along. We were not able to persuade the last government. We are clearly not able to persuade this one. But it does not alter our view that it should be in there.

The TEMPORARY CHAIRMAN: The question is that Australian Greens amendment (1) on sheet 7609 be agreed to.

Question negatived.
Senator XENOPHON (South Australia) (00:38): by leave—I move amendments (2) and (1) on sheet 7587 together:

(2) Page 120 (after line 12), at the end of the Bill, add:

Schedule 2—Emissions reduction safeguard mechanism

Part 1—Main amendments

National Greenhouse and Energy Reporting Act 2007

1 Section 3 (heading)

Repeal the heading, substitute:

3 Objects

2 Section 3

Omit "The object", substitute "(1) The first object".

3 At the end of section 3

Add:

(2) The second object of this Act is to ensure that net covered emissions of greenhouse gases from the operation of a designated large facility do not exceed the baseline applicable to the facility.

4 Section 6A

Before "This Act", insert "(1)".

5 At the end of section 6A

Add:

(2) Despite subsection (1), the safeguard provisions do not apply to a facility in:

(a) the Greater Sunrise unit area; or

(b) the Joint Petroleum Development Area.

6 Section 6B

After "This Act", insert "(other than the safeguard provisions)".

7 Section 7

Insert:

1 March, when used in the safeguard provisions, means:

(a) if the 1 March concerned is a business day—that 1 March; or

(b) if the 1 March concerned is not a business day—the first business day after that 1 March.

account number, in relation to a Registry account, has the same meaning as in the Australian National Registry of Emissions Units Act 2011.

Australian carbon credit unit has the same meaning as in the Carbon Credits (Carbon Farming Initiative) Act 2011.

avoid, in relation to emissions of greenhouse gases, includes reduce or eliminate.

baseline emissions number has the meaning given by section 22XL.

business day means a day that is not:

(a) a Saturday; or

(b) a Sunday; or

(c) a public holiday in the Australian Capital Territory.

carbon abatement means:
(a) the removal of one or more greenhouse gases from the atmosphere; or
(b) the avoidance of emissions of one or more greenhouse gases.

*carbon abatement contract* has the same meaning as in the *Carbon Credits (Carbon Farming Initiative) Act 2011*.

*covered emissions* has the meaning given by section 22XI.

*designated large facility* has the meaning given by section 22XJ.

*Doha Amendment* means the amendments to the Kyoto Protocol that:

(a) were adopted by the Conference of the Parties serving as the meeting of the Parties to the Kyoto Protocol, in Decision 1/CMP.8; and
(b) are set out in Annex I to that Decision.

Note 1: The Doha Amendment was adopted in Doha, Qatar, in December 2012.


*electronic notice transmitted to the Regulator* has the same meaning as in the *Australian National Registry of Emissions Units Act 2011*.

*eligible offsets project* has the same meaning as in the *Carbon Credits (Carbon Farming Initiative) Act 2011*.

*excess emissions situation* has the meaning given by section 22XE.

*financial year*, when used in the safeguard provisions, means a financial year that began on or after the safeguard commencement day.

*Greater Sunrise unit area* has the same meaning as in the *Offshore Petroleum and Greenhouse Gas Storage Act 2006*.

*international agreement* means an agreement whose parties are:

(a) Australia and a foreign country; or
(b) Australia and 2 or more foreign countries.

*Kyoto Protocol* means the Kyoto Protocol to the United Nations Framework Convention on Climate Change done at Kyoto on 11 December 1997, as amended and in force for Australia from time to time.

Note: The Kyoto Protocol is in Australian Treaty Series 2008 No. 2 ([2008] ATS 2) and could in 2014 be viewed in the Australian Treaties Library on the AustLII website (http://www.austlii.edu.au).

*monitoring period* has the meaning given by section 22XG.

*net emissions number* has the meaning given by section 22 XK.

*prescribed carbon unit* has the meaning given by section 22XM.

*registered holder*, in relation to a prescribed carbon unit, means the person in whose Registry account there is an entry for the unit.

*Registry* means the Australian National Registry of Emissions Units continued in existence under the *Australian National Registry of Emissions Units Act 2011*.

*Registry account* has the same meaning as in the *Australian National Registry of Emissions Units Act 2011*.

*responsible emitter* has the meaning given by section 22XH.

*safeguard commencement day* means the day on which Part 3H commences.

*safeguard provisions* means the following provisions:
(a) subsection 3(2);
(b) section 15B;
(c) section 18AA;
(d) Part 3G;
(e) Part 3H.
safeguard rules means rules made under section 22XS.
surrender, in relation to a prescribed carbon unit, means surrender under section 22XN.

8 Before section 12
Insert:
Subdivision A—Application by a controlling corporation

9 At the end of Division 1 of Part 2
Add:
Subdivision B—Application by a responsible emitter for a designated large facility etc.

15B Application by a responsible emitter for a designated large facility etc.
(1) If:
(a) a person is the responsible emitter for a facility during the whole or a part of a financial year;
and
(b) the facility is a designated large facility for the financial year;
and
(c) the person is not a controlling corporation;
the person must apply, in accordance with this section, to be registered under this Act.
Note: Under Division 137 of the Criminal Code, it may be an offence to provide false or misleading information or documents to the Regulator in purported compliance with this Act.
(2) However, a person is not required to make an application under subsection (1) if the person is registered under this Act at the end of the financial year.
(3) An application under subsection (1) must be made by 31 August next following the financial year.
(4) An application under subsection (1) must:
(a) be made to the Regulator; and
(b) be in a form approved by the Regulator; and
(c) set out the information specified by the safeguard rules for the purposes of this paragraph.

10 After Division 3 of Part 2
Insert:
Division 4—Registration of other persons

18AA Registration of other persons
(1) The Regulator must register a person under this Act if the person has applied for registration under section 15B.
(2) The Regulator must notify the person, in writing, of the Regulator's decision on the application.
(3) The person is registered under this Act when the Regulator has entered the name of the person on the Register.
11 After paragraph 18B(3)(a)
   Insert:
   (b) if the person was registered under section 18AA—the person is not likely to be required to give a report to the Regulator under section 22XB at any time during the next 4 financial years; and

12 After Part 3F
   Insert:
   Part 3G—Reporting obligations of responsible emitters of designated large facilities etc.
   22XB Report to be given to Regulator
   (1) If:
   (a) a person is the responsible emitter for a facility during the whole or a part of a financial year (the relevant financial year); and
   (b) at least one day in the relevant financial year is included in a monitoring period for the facility in relation to the person; and
   (c) if the person is the responsible emitter for the facility during the whole of the relevant financial year—the covered emissions of greenhouse gases from the operation of the facility during the relevant financial year are not dealt with by a report given to the Regulator under section 19, 22G or 22X; and
   (d) if the person is the responsible emitter for the facility during a part of the relevant financial year—the covered emissions of greenhouse gases from the operation of the facility during that part of the relevant financial year are not dealt with by a report given to the Regulator under section 19, 22G or 22X;

   the person must, in accordance with this section, provide a report to the Regulator relating to:
   (e) if the person is the responsible emitter for the facility during the whole of the relevant financial year—the covered emissions of greenhouse gases from the operation of the facility during the relevant financial year; or
   (f) if the person is the responsible emitter for the facility during a part of the relevant financial year—the covered emissions of greenhouse gases from the operation of the facility during that part of the relevant financial year.

   Note: Under Division 137 of the Criminal Code, it may be an offence to provide false or misleading information or documents to the Regulator in purported compliance with this Act.

   (2) A report under this section must:
   (a) be given in a manner and form approved by the Regulator; and
   (b) set out the information specified by the safeguard rules for the purposes of this paragraph; and
   (c) be given to the Regulator before the end of 4 months after the end of the relevant financial year.

   (3) Safeguard rules made for the purposes of paragraph (2)(b) may specify different requirements for different circumstances.

   22XC Records to be kept
   (1) If:
   (a) a person is the responsible emitter for a facility during the whole or a part of a financial year (the relevant financial year); and
   (b) the person is or was required by section 22XB to provide a report to the Regulator relating to:
      (i) if the person is the responsible emitter for the facility during the whole of the relevant financial year—the covered emissions of greenhouse gases from the operation of the facility during the relevant financial year; or
(ii) if the person is the responsible emitter for the facility during a part of the relevant financial year—the covered emissions of greenhouse gases from the operation of the facility during that part of the relevant financial year;

the person must keep records of the person's activities that:

(c) allow the person to report accurately under section 22XB; and

(d) enable the Regulator to ascertain whether the person has complied with the person's obligations under section 22XB; and

(e) comply with the requirements of subsection (2) and the safeguard rules made for the purposes of subsection (3).

(2) The person must retain the records for 5 years from the end of the relevant financial year.

(3) The safeguard rules may specify requirements relating to:

(a) the kinds of records; and

(b) the form of records;

that must be kept under subsection (1).

Part 3H—Emissions reduction safeguard mechanism

Division 1—Introduction

22XD Simplified outline of this Part

• This Part sets up a mechanism to ensure that net covered emissions of greenhouse gases from the operation of a designated large facility do not exceed the baseline applicable to the facility.

• The mechanism starts on the safeguard commencement day.

• A facility is a designated large facility for a financial year if the number of tonnes of carbon dioxide equivalence of the total amount of covered emissions of greenhouse gases from the operation of the facility during the year exceeds the number specified in the safeguard rules.

• The net emissions number for a facility for a period is the number of tonnes of carbon dioxide equivalence of the total amount of covered emissions of greenhouse gases from the operation of the facility during the period:

(a) reduced by surrendered prescribed carbon units (for this purpose, Australian carbon credit units purchased by the Commonwealth are taken to have been surrendered); and

(b) increased by Australian carbon credit units that were issued in relation to the facility.

• Each designated large facility will be subject to a monitoring period. If, at the end of a monitoring period, the net emissions number for the facility for the monitoring period exceeds the baseline emissions number for the facility for the monitoring period, an excess emissions situation exists in relation to the facility.

• If a person is the responsible emitter for a facility, the person must ensure that an excess emissions situation does not exist in relation to the facility.

Division 2—Limit on emissions

22XE Excess emissions situation

(1) For the purposes of this Act, if:

(a) there is a monitoring period for a facility in relation to a person; and

(b) the net emissions number for the facility for the monitoring period exceeds the baseline emissions number for the facility for the monitoring period;
an excess emissions situation exists in relation to the facility for the monitoring period, unless an exemption declaration mentioned in subsection (2) is in force in relation to the facility and the monitoring period.

Note 1: For monitoring period, see section 22XG.
Note 2: For net emissions number, see section 22XK.
Note 3: For baseline emissions number, see section 22XL.

Exemption declaration

(2) The safeguard rules may empower the Regulator to declare in writing that an excess emissions situation does not exist in relation to a specified facility for a specified monitoring period. The declaration is to be known as an exemption declaration.

(3) The safeguard rules must provide that the Regulator may only make an exemption declaration on the application of the person who was the responsible emitter for the relevant facility during the relevant monitoring period.

(4) The safeguard rules must provide that the Regulator must not make an exemption declaration unless the Regulator is satisfied that:

(a) disregarding subsections 22XK(2) and (3), the net emissions number for the relevant facility for the relevant monitoring period exceeds the baseline emissions number for the facility for the monitoring period; and

(b) that excess is the direct result of any or all of the following:
   (i) a natural disaster;
   (ii) criminal activity;
   (iii) circumstances that, under the safeguard rules, are taken to be exceptional circumstances for the purposes of this subsection; and

(c) the responsible emitter:
   (i) has taken reasonable steps to mitigate risks of the relevant circumstance referred to in subparagraph (b)(i), (ii) or (iii) resulting in the situation described in paragraph (a); and
   (ii) has done so both before and after the occurrence of the circumstance; and

(d) such other conditions (if any) as are set out in the safeguard rules are satisfied.

22XF Duty to ensure that excess emissions situation does not exist

(1) If:

(a) a person is or was the responsible emitter for a facility; and

(b) there is a monitoring period for the facility in relation to the person; the person must ensure that an excess emissions situation does not exist in relation to the facility for the monitoring period at any time on or after:

(c) if the monitoring period ends at the end of a financial year—1 March next following the financial year; or

(d) if the monitoring period ends during a financial year—1 March next following the financial year.

Civil penalty:

(e) for an individual—one-fifth of the prescribed number of penalty units; or

(f) otherwise—the prescribed number of penalty units.

(2) For the purposes of paragraphs (1)(e) and (f), prescribed number means the number prescribed by the regulations.
(3) In recommending to the Governor-General the regulations that should be made for the purposes of subsection (2), the Minister must have regard to:

(a) the principle that a responsible emitter must not be allowed to benefit from non-compliance, having regard to the financial advantage the responsible emitter could reasonably be expected to derive from an excess emissions situation; and

(b) such other matters (if any) as the Minister considers relevant.

(4) The Minister must take all reasonable steps to ensure that regulations are in force for the purposes of subsection (2) at all times on and after the safeguard commencement day.

Division 3—Key concepts

22XG Monitoring periods

Monitoring period—single financial year

(1) For the purposes of this Act, if:

(a) a person is the responsible emitter for a facility throughout a financial year; and
(b) the financial year is not included in a declared multi-year period for the facility; and
(c) the facility is a designated large facility for the financial year;

the financial year is a **monitoring period** for the facility in relation to the person.

Note: For **declared multi-year period**, see subsection (5).

Monitoring period—part of a single financial year

(2) For the purposes of this Act, if:

(a) a person is the responsible emitter for a facility throughout a part of a financial year; and
(b) the financial year is not included in a declared multi-year period for the facility; and
(c) the facility is a designated large facility for the financial year;

the part of the financial year is a **monitoring period** for the facility in relation to the person.

Note: For **declared multi-year period**, see subsection (5).

Monitoring period—declared multi-year period

(3) For the purposes of this Act, if:

(a) there is a declared multi-year period for a facility; and
(b) a person is the responsible emitter for the facility throughout the declared multi-year period; and

(c) the facility is a designated large facility for at least one of the financial years included in the declared multi-year period;

the declared multi-year period is a **monitoring period** for the facility in relation to the person.

Note: For **declared multi-year period**, see subsection (5).

Monitoring period—part of a declared multi-year period

(4) For the purposes of this Act, if:

(a) there is a declared multi-year period for a facility; and
(b) a person is the responsible emitter for the facility throughout a part of the declared multi-year period; and

(c) the facility is a designated large facility for at least one of the financial years included in the declared multi-year period;
the part of the declared multi-year period is a monitoring period for the facility in relation to the person.

Note: For declared multi-year period, see subsection (5).

Declared multi-year period

(5) The safeguard rules may empower the Regulator to declare in writing that, for the purposes of this section, a specified period is a declared multi-year period for a specified facility.

(6) The specified period must consist of 2 or more consecutive financial years.

22XH Responsible emitter

For the purposes of this Act, a person is the responsible emitter for a facility at a particular time if:

(a) the person has operational control of the facility at that time; and

(b) that time occurs on or after the safeguard commencement day.

22XI Covered emissions

For the purposes of this Act, covered emissions of greenhouse gases means scope 1 emissions of one or more greenhouse gases, other than emissions of a kind specified in the safeguard rules.

22XJ Designated large facility

(1) For the purposes of this Act, a facility is a designated large facility for a financial year if:

(a) the total amount of covered emissions of greenhouse gases from the operation of the facility during the financial year has a carbon dioxide equivalence of a particular number of tonnes; and

(b) that number exceeds the number specified in the safeguard rules.

(2) The Minister must take all reasonable steps to ensure that safeguard rules are in force for the purposes of paragraph (1)(b) at all times on and after the safeguard commencement day.

22XK Net emissions number

(1) For the purposes of this Act, the net emissions number for a facility for a period is the number of tonnes of carbon dioxide equivalence of the total amount of covered emissions of greenhouse gases from the operation of the facility during the period.

Reduction—surrender of prescribed carbon units

(2) If:

(a) a number of prescribed carbon units are surrendered on a particular occasion; and

(b) the notice surrendering the units contains a statement to the effect that the units are being surrendered for the purpose of reducing the net emissions number for a facility for a period;

the net emissions number for the facility for the period is reduced (but not below zero) by the number of prescribed carbon units surrendered.

Note: For surrender of prescribed carbon units, see section 22XN.

(3) If:

(a) a person surrendered a number of prescribed carbon units for the purpose of reducing the net emissions number for a facility for a period; and

(b) under the safeguard rules:

(i) there is taken to be an excess surrender situation of the person in relation to the facility for the period; and

(ii) one or more of those units are taken to be covered by the excess surrender situation;

the safeguard rules may provide that this section has effect as if:
(c) the person had not surrendered the prescribed carbon units covered by the excess surrender situation for the purpose of reducing the net emissions number for the facility for the period; and

(d) the person had, at a time ascertained in accordance with the safeguard rules, surrendered, in relation to a later period ascertained in accordance with the safeguard rules, some or all of the prescribed carbon units covered by the excess surrender situation for the purpose of reducing the net emissions number for the facility for that later period.

Increase—Australian carbon credit units that were issued in relation to the facility

(4) If:

(a) a person (the relevant person) was the responsible emitter for a facility throughout a particular period; and

(b) during that period, one or more Australian carbon credit units were issued under the Carbon Credits (Carbon Farming Initiative) Act 2011 in respect of an eligible offsets project; and

(c) some or all of those Australian carbon credit units are attributable to carbon abatement at the facility; and

(d) if the units covered by paragraph (c) were issued to another person:

(i) the relevant person consented to the other person carrying out the project; and

(ii) the consent was given under regulations or legislative rules made for the purposes of paragraph 15(2)(h) or 27(4)(l) of the Carbon Credits (Carbon Farming Initiative) Act 2011;

the net emissions number for the facility for the period is increased by the total number of those Australian carbon credit units.

22XL Baseline emissions number

(1) The baseline emissions number for a facility for a financial year is the number ascertained in relation to the facility in accordance with the safeguard rules.

Note: See also section 22XQ.

(2) The baseline emissions number for a facility for a period other than a financial year is the number worked out using the formula:

\[
\text{Baseline emissions number for the facility for the financial year} \times \frac{\text{Number of days in the period}}{365}
\]

(3) The Minister must take all reasonable steps to ensure that safeguard rules are in force for the purposes of subsection (1) at all times on and after the safeguard commencement day.

22XM Prescribed carbon unit

(1) For the purposes of this Act, prescribed carbon unit means:

(a) an Australian carbon credit unit; or

(b) a unit that is specified in the safeguard rules.

It is immaterial whether a unit specified in the safeguard rules was issued in or outside Australia.

(2) A unit must not be specified in safeguard rules made for the purposes of paragraph (1)(b) unless:

(a) the unit was issued under a scheme relating to either or both of the following:

(i) the removal of one or more greenhouse gases from the atmosphere;

(ii) the avoidance of emissions of one or more greenhouse gases; and

(b) the unit represents carbon abatement that is able to be used to meet Australia's climate change targets under:

(i) the Kyoto Protocol; or
(ii) an international agreement (if any) that is the successor (whether immediate or otherwise) to the Kyoto Protocol.

For the purposes of the application of the definition of *Kyoto Protocol* to paragraph (b)(ii), if the Doha Amendment is not in force for Australia, the Doha Amendment is taken to be in force for Australia.

**Division 4—Surrender of prescribed carbon units**

**22XN How prescribed carbon units are surrendered**

(1) If a person is the registered holder of one or more prescribed carbon units, the person may, by electronic notice transmitted to the Regulator, surrender any or all of those units.

(2) A notice under subsection (1) must:

(a) specify the prescribed carbon unit or units that are being surrendered; and

(b) set out a statement to the effect that the prescribed carbon unit or units are being surrendered for the purpose of reducing the net emissions number for a specified facility for a specified period; and

(c) specify the account number or account numbers of the person's Registry account, or the person's Registry accounts, in which there is an entry or entries for the prescribed carbon unit or units that are being surrendered.

(3) If an Australian carbon credit unit is surrendered by a person for the purposes of reducing the net emissions number for a facility for a period:

(a) the unit is cancelled; and

(b) the Regulator must remove the entry for the unit from the person's Registry account in which there is an entry for the unit.

(4) If a prescribed carbon unit (other than an Australian carbon credit unit) is surrendered by a person:

(a) the Regulator must take such action in relation to the unit as is specified in the safeguard rules; and

(b) the Regulator must remove the entry for the unit from the person's Registry account in which there is an entry for the unit.

(5) The Registry must set out a record of each notice under subsection (1).

**Deemed surrender—purchased Australian carbon credit units**

(6) If:

(a) a person (the relevant person) was the responsible emitter for a facility throughout a particular period; and

(b) during that period, one or more Australian carbon credit units were issued under the *Carbon Credits (Carbon Farming Initiative) Act 2011* in respect of an eligible offsets project; and

(c) some or all of those Australian carbon credit units are attributable to carbon abatement at the facility; and

(d) if the units covered by paragraph (c) were issued to another person:

(i) the relevant person consented to the other person carrying out the project; and

(ii) the consent was given under regulations or legislative rules made for the purposes of paragraph 15(2)(h) or 27(4)(l) of the *Carbon Credits (Carbon Farming Initiative) Act 2011*; and

(e) some or all of the units covered by paragraph (c) were purchased by the Commonwealth under a carbon abatement contract;
section 22XK has effect as if:

(f) the units covered by paragraph (e) had been surrendered by electronic notice transmitted to the Regulator under subsection (1) of this section instead of being purchased by the Commonwealth under a carbon abatement contract; and

(g) the notice surrendering the units had contained a statement to the effect that the units are being surrendered for the purpose of reducing the net emissions number for the facility for the period.

Division 5—Other matters

22XO Concurrent operation of State and Territory laws

(1) The safeguard provisions and the safeguard rules are not intended to exclude or limit the operation of a law of a State or Territory that is capable of operating concurrently with the safeguard provisions and those rules.

(2) Subsection (1) of this section has effect subject to section 5.

22XP Administrative decisions under the safeguard rules etc.

(1) The safeguard rules may make provision in relation to a matter by conferring a power to make a decision of an administrative character on the Regulator.

(2) The safeguard rules may empower the Regulator to give advisory notices.

(3) Subsection (2) does not limit subsection (1).

22XQ Baseline determinations made under the safeguard rules etc.

Scope

(1) This section applies to a determination that:

(a) is made by the Regulator under the safeguard rules; and

(b) relates to the ascertainment of the baseline emissions number for a facility for a financial year.

Commencement of determination

(2) The safeguard rules may provide that a determination comes into force:

(a) when it is made; or

(b) if:

(i) an earlier day is specified in the determination; and

(ii) that day is not earlier than the financial year in which the determination was made; on the day specified; or

(c) if:

(i) an earlier day is specified in the determination; and

(ii) that day is not earlier than the financial year preceding the financial year in which the determination was made; and

(iii) the effect of the determination is to increase the baseline emissions number for a facility for a financial year; on the day specified.

Audit

(3) The safeguard rules may provide that an application for a determination is to be accompanied by an audit report that is:

(a) prescribed by the safeguard rules; and

(b) prepared by a registered greenhouse and energy auditor who has been appointed as an audit team leader for the purpose.
22XR Alternative constitutional basis

(1) Without limiting their effect apart from this section, the safeguard provisions also have effect as provided by this section.

External affairs

(2) The safeguard provisions also have the effect they would have if:

(a) subsection (3) had not been enacted; and

(b) the safeguard provisions did not apply except to the extent to which they relate to:

(i) matters of international concern; or

(ii) matters external to Australia.

Limited types of responsible emitters

(3) The safeguard provisions also have the effect they would have if:

(a) subsection (2) had not been enacted; and

(b) each reference in:

(i) section 15B; and

(ii) section 18AA; and

(iii) section 22XB; and

(iv) section 22XC; and

(v) section 22XF;

to a person were, by express provision, confined to a person who is:

(vi) a constitutional corporation; or

(vii) an authority of the Commonwealth.

22XS Safeguard rules

(1) The Minister may, by legislative instrument (and subject to subsection (2)), make rules (safeguard rules) prescribing matters:

(a) required or permitted by this Act to be prescribed by the safeguard rules; or

(b) necessary or convenient to be prescribed for carrying out or giving effect to the safeguard provisions.

(2) To avoid doubt, the safeguard rules may not do the following:

(a) create an offence or civil penalty;

(b) provide powers of:

(i) arrest or detention;

(ii) entry, search or seizure;

(c) impose a tax;

(d) set an amount to be appropriated from the Consolidated Revenue Fund under an appropriation in this Act;

(e) amend this Act.

(3) Safeguard rules that are inconsistent with the regulations have no effect to the extent of the inconsistency, but safeguard rules are taken to be consistent with the regulations to the extent that safeguard rules are capable of operating concurrently with the regulations.
Part 2—Consequential amendments

*Carbon Credits (Carbon Farming Initiative) Act 2011*

12A Subparagraph 27(4A)(b)(i)

After "Territory", insert "(other than the National Greenhouse and Energy Reporting Act 2007)".

*National Greenhouse and Energy Reporting Act 2007*

13 Section 7 (at the end of the definition of audit team leader)

Add "or a safeguard audit".

14 Section 7 (definition of audit team member)

After "energy audit", insert "or a safeguard audit".

14A Section 7 (definition of foreign corporation)

Repeal the definition.

15 Section 7

Insert:

*foreign person* means any of the following:

(a) an individual who is not ordinarily resident in Australia;

(b) a body corporate that:

(i) is incorporated outside Australia; or

(ii) is an authority of a foreign country;

(c) a corporation sole that:

(i) is incorporated outside Australia; or

(ii) is an authority of a foreign country;

(d) a body politic of a foreign country;

(e) a trust, where the trustee, or a majority of the trustees, are covered by any or all of the above paragraphs.

16 Section 7 (definition of greenhouse and energy information)

After "Regulator under this Act", insert "or the safeguard rules,".

17 Section 7 (definition of greenhouse and energy information)

Omit "under this Act or the regulations", substitute "under this Act, the regulations or the safeguard rules".

18 Section 7

Insert:

*local governing body* means a local governing body established by or under a law of a State or Territory.

*non-group entity* means a person who is not a member of a controlling corporation's group.

19 Section 7 (definition of operational control)

Omit "11A or 11B", substitute "11A, 11B or 11C".

20 Section 7

Insert:

*person* means any of the following:

(a) an individual;
(b) a body corporate;
(c) a trust;
(d) a corporation sole;
(e) a body politic;
(f) a local governing body.

_safeguard audit_ means an audit carried out for the purposes of preparing an audit report prescribed by safeguard rules made for the purposes of subsection 22XQ(3).

_safeguard audit report_ means an audit report prescribed by safeguard rules made for the purposes of subsection 22XQ(3).

_trust_ means a person in the capacity of trustee or, as the case requires, a trust estate.

_trustee_ has the same meaning as in the _Income Tax Assessment Act 1997_.

_trust estate_ has the same meaning as in the _Income Tax Assessment Act 1997_.

21 At the end of paragraph 9(1)(b)
Add "or 54A".

22 Subsection 11(1)
Omit "group entity" (wherever occurring), substitute "person".

23 At the end of paragraph 11(1)(b)
Add "or 55A".

24 Subsection 11(3)
Omit "group entity", substitute "person".

25 Subsection 11(4)
Omit "11A and 11B", substitute "11A, 11B and 11C".

26 Section 11A (heading)
Repeal the heading, substitute:

11A Operational control—person with greatest authority

27 Paragraph 11A(1)(a)
Omit "group entities", substitute "persons".

28 Paragraph 11A(1)(b)
Omit "group entity", substitute "person".

29 Paragraph 11A(1)(c)
After "55", insert "or 55A".

30 Subsection 11A(2)
Omit "group entity", substitute "person".

31 Section 11B (heading)
Repeal the heading, substitute:

11B Operational control—nominated person

32 Paragraph 11B(1)(a)
Omit "more group entities", substitute "more persons".

33 Paragraph 11B(1)(a)
Omit "relevant group entities", substitute "relevant persons".
34 Paragraph 11B(1)(b)  
Omit "group entity", substitute "person".

35 Paragraph 11B(1)(c)  
After "55", insert "or 55A".

36 Subsection 11B(2)  
Omit "group entities", substitute "persons".

37 Subsection 11B(2)  
Omit "group entity", substitute "person".

38 Paragraph 11B(4)(a)  
Omit "group entities is a foreign corporation", substitute "persons is a foreign person".

39 Paragraph 11B(4)(b)  
Omit "group entities is not a foreign corporation", substitute "persons is not a foreign person".

40 Subsection 11B(4)  
Omit "foreign corporation cannot", substitute "foreign person cannot".

41 Paragraph 11B(5)(b)  
Omit "group entities", substitute "persons".

42 Subsection 11B(10)  
Omit "group entity" (wherever occurring), substitute "person".

43 Subsection 11B(15)  
Omit "group entity", substitute "person".

44 Subsection 11B(17)  
Omit "group entities", substitute "persons".

45 Subsection 11B(21)  
Omit "group entity", substitute "person".

46 Subsection 11B(22)  
Omit "group entity", substitute "person".

47 At the end of subsection 11B(22)  
Add "or 55A".

48 After section 11B  
Insert:

**11C Operational control—trust with multiple trustees**

*Eligible nomination test*  
(1) For the purposes of this section, a facility **passes the eligible nomination test** at a particular time if:

(a) because of section 11, 11A or 11B, a trust has operational control of the facility at that time; and

(b) at that time, there are 2 or more trustees (the *relevant trustees*) of the trust; and

(c) no declaration under section 55 or 55A applies in relation to the facility at that time; and

(d) that time occurs in a designated financial year.

*Nomination*
(2) 2 or more trustees may jointly nominate one of them to be the nominated trustee in relation to a facility throughout the period:

(a) beginning at the start of the day specified in the nomination as the day on which the nomination is to come into force (the *start day*); and

(b) ending at a later time specified in the nomination.

(3) The nomination must:

(a) be in writing; and

(b) be in a form approved by the Regulator; and

(c) be accompanied by such information as is specified in the regulations; and

(d) be accompanied by such documents (if any) as are specified in the regulations.

(4) If:

(a) any of those trustees is a foreign person; and

(b) any of those trustees is not a foreign person;

a foreign person cannot be nominated.

(5) The nomination has no effect unless, at the beginning of the start day:

(a) the facility passes the eligible nomination test; and

(b) the nominators are the relevant trustees.

(6) The start day may occur before the nomination is made.

(7) If the start day occurs during a particular designated financial year, the nomination must not be made after 31 August next following the designated financial year.

(8) The start day may be later than the day on which the nomination is made, so long as:

(a) the start day occurs in the same financial year as the day on which the nomination is made; or

(b) the start day occurs in the financial year next following the financial year in which the nomination is made.

_Cancellation of nomination_

(9) The Regulator may cancel a nomination that relates to a facility if the Regulator is satisfied that:

(a) the facility passes the eligible nomination test, but the nominated trustee is not a relevant trustee; or

(b) the facility does not pass the eligible nomination test; or

(c) the nominated trustee has become an externally-administered body corporate; or

(d) the nominated trustee has become an insolvent under administration; or

(e) the nominated trustee has an unsatisfactory compliance record.

Note: For _unsatisfactory compliance record_, see section 11D.

(10) A cancellation of a nomination takes effect on the day specified in the notice of cancellation as the day on which the cancellation is to take effect.

(11) If the Regulator cancels a nomination, the Regulator must give written notice of the cancellation to each nominator.

_Replacement nomination_

(12) If:

(a) a nomination (the _original nomination_ ) is in force in relation to a facility; and

(b) another nomination is made in relation to the facility;
the other nomination has no effect unless it is expressed to replace the original nomination.

Revocation of nomination

(13) If:
(a) a nomination (the original nomination) is in force in relation to a facility; and
(b) another nomination is made in relation to the facility; and
(c) the other nomination is expressed to replace the original nomination;
the original nomination is taken to have been revoked at the beginning of the start day for the other nomination.

Operational control—nomination made

(14) If:
(a) a nomination is in force in relation to a facility throughout a particular period; and
(b) the facility passes the eligible nomination test at all times during the period;
the nominated trustee is taken, for the purposes of this Act, to have operational control of the facility throughout the period.

Operational control—nomination not made

(15) If:
(a) no nomination is in force in relation to a facility at any time during a particular period; and
(b) the facility passes the eligible nomination test at all times during the period;
each relevant trustee is taken, for the purposes of this Act, to have operational control of the facility throughout the period.

Notification

(16) If:
(a) a nomination is in force in relation to a facility; and
(b) the facility ceases to pass the eligible nomination test;
each nominator must, within 30 days after the cessation, notify the cessation to the Regulator unless the cessation has previously been notified to the Regulator.

Exceptions

(17) A trustee is not required to comply with subsection (16) if the question of who has operational control of the facility is not relevant (whether directly or indirectly) to a requirement under this Act.

(18) A trustee is not required to comply with subsection (16) if the facility ceases to pass the eligible nomination test because of the making of a declaration under section 55 or 55A.

Definition

(19) In this section:
nomination means a nomination under subsection (2).

48A At the end of paragraph 16(1)(b)
Add:
; (vi) the safeguard provisions.

49 After subparagraph 23(1)(b)(i)
Insert:
(ii) the safeguard rules or the performance of duties in relation to the safeguard rules; or
50 Subsection 25(1)
Omit "or 22X", substitute ", 22X or 22XB".

51 Subsection 45(1)
Omit "or the regulations" (wherever occurring), substitute ", the regulations or the safeguard rules".

51A At the end of Part 5
Add:

Division 5—Injunctions

49 Injunctions

Scope
(1) This section applies to each of the following provisions:
(a) subsection 11B(20);
(b) subsection 11C(16);
(c) subsection 12(1);
(d) subsection 15B(1);
(e) subsection 19(1);
(f) subsection 20(4);
(g) subsection 21(4);
(h) subsection 21A(2);
(i) subsection 22(1);
(j) subsection 22(2);
(k) subsection 22G(1);
(l) subsection 22H(1);
(m) subsection 22X(2);
(n) subsection 22XA(1);
(o) subsection 22XB(1);
(p) subsection 22XC(1);
(q) subsection 22XF(1).

Enforceable provisions

Authorised person

Relevant court

Extension to external Territories etc.
(5) A reference to this Act in sections 6 to 6C of this Act includes a reference to Part 7 of the Regulatory Powers (Standard Provisions) Act 2014, as that Part applies in relation to the provision.
52 After section 54

Insert:

54A Regulator may declare facility—non-group entity

(1) The Regulator may declare that an activity or series of activities (including ancillary activities) are a facility:

(a) on application by a non-group entity; or
(b) on the Regulator's own initiative.

(2) An application must:

(a) identify the facility for which a declaration is sought; and
(b) include any other information required by the regulations; and
(c) be given in a manner and form approved by the Regulator.

(3) In considering making a declaration that an activity or series of activities are a facility, the Regulator must have regard to:

(a) the matters dealt with in regulations made for the purposes of paragraph 9(1)(a); and
(b) the need for each facility to be distinct from, and not overlap with, activities that constitute other facilities.

(4) The Regulator must notify, in writing, an applicant under paragraph (1)(a) of a decision under subsection (1) to declare a facility or to refuse the application.

(5) If the Regulator makes a declaration under paragraph (1)(b), the Regulator must notify, in writing, the person that has, or that the Regulator reasonably believes has, operational control of the facility to which the declaration relates.

53 After section 55

Insert:

55A Regulator may declare non-group entity has operational control

(1) The Regulator may declare that a non-group entity has operational control of a facility:

(a) on application by the non-group entity; or
(b) on the Regulator's own initiative.

(2) An application must:

(a) identify the facility for which a declaration of operational control is sought; and
(b) include any other information required by the regulations; and
(c) be given in a manner and form approved by the Regulator.

(3) In considering making a declaration that a non-group entity has operational control of a facility, the Regulator must have regard to the matters dealt with in paragraph 11(1)(a) and regulations made for the purposes of that paragraph.

(4) The Regulator must not declare that a non-group entity has operational control of a facility unless the Regulator is satisfied that the non-group entity has substantial authority to introduce and implement either or both of the following for the facility:

(a) operating policies;
(b) environmental policies.

(5) The Regulator must notify, in writing, an applicant under paragraph (1)(a) of a decision under subsection (1) to declare the non-group entity to have operational control of the facility or to refuse the application.
(6) If the Regulator makes a declaration under paragraph (1)(b), the Regulator must notify, in writing, the non-group entity which the Regulator has declared to have operational control of the facility to which the declaration relates.

54 After paragraph 56(aaa)
   Insert:
   (aab) cancel a nomination under section 11C;

55 After paragraph 56(a)
   Insert:
   (ab) not register a person under section 18AA;

56 After paragraph 56(dc)
   Insert:
   (dd) refuse to make a determination under the safeguard rules;
   (de) make a determination under the safeguard rules;
   (df) refuse to make a declaration under the safeguard rules;
   (dg) make a declaration under the safeguard rules;

57 After paragraph 56(g)
   Insert:
   (ga) refuse an application under section 54A;
   (gb) declare a facility under paragraph 54A(1)(b);

58 After paragraph 56(i)
   Insert:
   (ia) refuse an application under section 55A;
   (ib) declare that a non-group entity has operational control of a facility under paragraph 55A(1)(b);

59 At the end of subsection 75(1)
   Add:
   ; and (e) preparing for and carrying out safeguard audits; and
   (f) preparing safeguard audit reports.

Part 3—Transitional provisions

60 Regulations—civil penalty
   The Minister must take all reasonable steps to ensure that:
   (a) regulations are made for the purposes of subsection 22XF(2) of the National Greenhouse and Energy Reporting Act 2007 (as amended by this Schedule), in accordance with section 4 of the Acts Interpretation Act 1901; and
   (b) those regulations are so made before 1 October 2015.

61 Safeguard rules—designated large facility and baseline emissions number
   (1) The Minister must take all reasonable steps to ensure that:
   (a) safeguard rules are made for the purposes of paragraph 22XJ(1)(b) and subsection 22XL(1) of the National Greenhouse and Energy Reporting Act 2007 (as amended by this Schedule), in accordance with section 4 of the Acts Interpretation Act 1901; and
   (b) those safeguard rules are so made before 1 October 2015.
The Minister must cause to be published on the Department's website a statement that explains how safeguard rules made as mentioned in subitem (1) give effect to the second object of the National Greenhouse and Energy Reporting Act 2007 (as amended by this Schedule).

Clause 2, page 2 (at the end of the table), add:

3. Schedule 2, Parts 1 and 2 1 July 2016.
4. Schedule 2, Part 3 The day after this Act receives the Royal Assent.

In my view, this is an incredibly important amendment that is vital to the proper functioning of the ERF, and that is to have a safeguard mechanism. And I will go into detail. I know it is late—I will use my words carefully—but I think it is important to set out what this amendment hopes to achieve.

This amendment creates a framework for a safeguard mechanism to operate as part of the ERF by requiring the minister to establish a set of safeguard rules and for the regulator to set baselines that a designated large facility must meet from 1 July 2016. It is important to note that the safeguard rules and the associated regulations are both disallowable instruments. The safeguard rules made by the minister can specify, amongst other things, how baselines are to be calculated, the coverage thresholds and what carbon units can be used as offsets. The safeguard rules in themselves cannot impose a tax; create an offence or a civil penalty; provide powers of entry, search and seizure; or amend the legislative framework set out in the attached provisions.

The minister must publish a statement on the Department of the Environment website explaining how the rules achieve the safeguard's objective of ensuring that net emissions from safeguard facilities do not exceed their baseline. To provide certainty to stakeholders, the minister must take all reasonable steps to ensure that the safeguard rules essential for the operation of the scheme are made before 1 October 2015, though they will not come into operation until 1 July 2016.

The safeguard mechanism applies to the person with operational control—the operator of a large facility—which will be determined by applying a direct emissions threshold specified in the safeguard rules. The mechanism only applies to direct emissions—that is, scope 1 emissions—because electricity generators will be responsible for the direct emissions from electricity production. For the purpose of the safeguard mechanism, operators may be constitutional corporations or other persons. This extends to the existing National Greenhouse and Energy Reporting Act 2007 coverage for the purpose of the safeguard mechanism to include facilities operated by persons that are not constitutional corporations, such as a governing body or a trust. Extending coverage to persons other than constitutional corporations helps ensure competitive neutrality between facility operators.

Operators have a duty to keep their net emissions within their baseline emissions in each relevant monitoring period. This is assessed on 1 March, following the end of each monitoring period. A breach of the obligation continues until net emissions for the period are brought back to the baseline by the surrender of eligible carbon units. Failure to meet the obligation is a civil penalty enforceable by the regulator in court with a maximum amount to be set in regulations. In setting this amount, the minister must consider the financial advantage a responsible emitter could reasonably be expected to derive from continuing to breach their safeguard obligation.
I would like to clarify at this point that the regulations to determine the penalties will be established separately from the safeguard rules, consistent with sound drafting practice. The ability for the minister to create the rules is set out in the legislation. The rules cannot establish or contain the penalty; instead the legislation establishes the penalty, while the regulations determine the amount. In other words, the head of power for the penalties is in the legislation. The amount of the penalty will be set out in the regulations—that is, the safeguard rules are separate from regulations that will determine the penalty amounts.

The Clean Energy Regulator may also seek an injunction to require a responsible emitter to surrender eligible carbon units to bring net emissions back to baseline levels. Baseline emissions will be calculated in accordance with safeguard rules. The regulator will be empowered to make determinations relating to baselines under the rules where baselines need to be set for facilities with significant expansions or without a history of reporting under the NGER Act. Any such determinations are reviewable in the Administrative Appeals Tribunal. This amendment includes certain reporting requirements which are consistent with the current NGER Act. Most operators are already registered and report their emissions under the act. They will not need to provide any further reporting. Operators of large facilities not already registered must register on the National Greenhouse and Energy Register and then may need to report their emissions each financial year if they are not already included in an existing NGER report.

Direct emissions can be netted or translated into net emissions in several ways. Facilities may surrender offsets and therefore subtract those offsets. They must also adjust for Australian carbon credit units issued to ERF projects at the facility to avoid double-counting the emissions reductions. To clarify this point: safeguard facilities may undertake projects under the ERF, but the emissions reductions achieved by such projects can only be counted once. However, there is a potential for these emissions reductions to be double-counted. For example, for each tonne by which the facility reduces its actual emissions through such a project, it would also be credited with an ACCU—Australian carbon credit unit—that it could surrender under the safeguard to further reduce its net emissions.

This amendment ensures that abatement from a safeguard facility is only counted once by increasing net emissions by the number of ACCUs generated at the facility. ACCUs sold to the government through a carbon abatement contract under the ERF by a safeguard facility are deemed to be surrendered. There is also the potential to allow facilities to average their emissions over a number of years if the safeguard rules allow. This can also help to address spikes in emissions cycles. If operators surrender more carbon units than are needed for a facility’s net emissions to stay below its baseline, the safeguard rules may also specify that the excess surrendered units can be counted against net emissions in future years.

It is also important to note that the amendments allow the safeguard rules to include a narrow set of exceptions when an operator exceeds its baseline as a direct result of a natural disaster, criminal activity or similar exceptional event. However, in deciding to make an exemption, it must be considered whether all reasonable steps were taken by the operator to mitigate the risk of such an event causing an excess emission situation.

I would like to acknowledge the significant feedback I have received in response to the exposure draft of this amendment. Many of the concerns related to how the baselines would be set and whether they would be too strict or too lax. This amendment does not seek to
establish the baselines; instead, it provides a framework for this to take place. I acknowledge that the government's original position in the direct action white paper was to establish a safeguard mechanism from 1 July 2015. Given that the bill is not or has not yet passed and that, in all fairness, there needs to be a significant consultation process, I have included the commencement date of 1 July 2016 in this amendment but the baselines must be set by 1 October next year. I call on the government to support a thorough and fair consultation process in this regard. It is vitally important that baselines are set in an appropriate and balanced way in case we fall foul of the 'Goldilocks paradox'—that is, whether they are too hot or too cold.

I believe this amendment gives the regulator and the government enough time to get the baselines just right. Ultimately, this amendment is a significant step forward because it puts in place hard legislative deadlines and requirements in relation to a safeguard mechanism. It has been widely acknowledged that this is vital to the appropriate operation of the scheme and I am very happy to take questions from my colleagues in relation to this.

Senator CORMANN (Western Australia—Minister for Finance) (00:46): I thank Senator Xenophon. This amendment establishes the legislative framework for the safeguard mechanism and delays the start date to 1 July 2016. The government will continue to consult with business on the design of the safeguard mechanism between now and the due date. The government supports the amendment proposed by Senator Xenophon.

Senator SINGH (Tasmania) (00:46): I would like to see seek some clarity: the safeguard mechanism created as part of this amendment would not come into effect until 2016, which is 12 months after the government's commitment to introduce it, so what happens in the meantime? I assume polluters can keep doing whatever they do—polluting—at will until 2016 and then, after that, any polluter who does not bid into the ERF can continue to pollute at whatever level they so choose for as long as they choose. Is that correct, or is it those outside the ERF as well?

Senator CORMANN (Western Australia—Minister for Finance) (00:47): In direct response to the question of what happens between now and 1 July 2016, well, that is the beautiful thing about what is happening tonight. Tonight the Australian Senate is making a decision that will see direct action become a reality, and very soon after tonight positive incentives will be available to businesses across Australia to help reduce emissions in the most cost effective way possible as a result of the very constructive approach taken by some crossbench senators—in particular, on this occasion, the Palmer United Party and the Australian Motoring Enthusiasts Party again, and also on this occasion Senator Madigan and Senator Xenophon. Sadly, on this occasion the government has not been successful in convincing our good friends and valued colleagues from the Liberal Democratic and Family First parties.

Your question is what will happen between now and 1 July 2016. Between now and 1 July 2016 positive incentives will be available across the Australian economy to encourage businesses to bring forward initiatives that will help reduce emissions across Australia in the most cost-effective way possible. And do you know what? This is an approach that replaces the disastrous Labor-Green carbon tax, which was hitting families and businesses for six. The Labor-Green carbon tax—which was pushing up the cost of electricity, which was pushing up the cost of gas, which was pushing up the cost of living, which was pushing up the cost of
doing business, which was making Australia less competitive internationally—is gone and
tonight the Senate is replacing it with a genuine market-based mechanism, a genuine positive
initiative, an initiative that will see businesses across Australia positively participate in the
important effort of reducing emissions across Australia.

As we have always said, we will be consulting when it comes to the safeguard
mechanisms. As we have always indicated, we will be consulting in relation to the design of
those mechanisms. It is very sensible to ensure that we give ourselves an appropriate time
frame to allow us to do that in a sensible fashion. So it is quite appropriate that the starting
date for the legislative framework has been delayed to 1 July 2016.

Senator MILNE (Tasmania—Leader of the Australian Greens) (00:50): There is where
the fundamental problem with Direct Action arises. This is about going out and saying to the
big polluters, 'Let's have a look at what your baseline might be.' Guess what? Between now
and then, they will have a perverse incentive to increase their greenhouse gas emissions until
the advent of the safeguard mechanism. That will increase the historical emissions for a
facility, which will have the effect of making the safeguard level more difficult to breach. It is
basically saying to the big polluters, 'In the next couple of years, just get out there and pump it
out, because the higher your emissions, the higher your baseline will be—and when it is set
that high, you will never breach it, so you will never have to pay.' In the meantime, if you
want them to bring down their emissions, they will have their hands out with sticky fingers to
reach into the taxpayer's pocket—they will be paid to do something about it.

This is the Dodgy Brothers end of Direct Action. If ever anyone thought the Abbott
government was governing for anyone other than the big end of town, this should finally
dispel that idea. We had a scheme where the polluters paid. The polluters were paying under
the emissions trading scheme we had. That has now been abolished by the Palmer United
Party and the government. In its place we have a pay-the-polluters scheme. We are telling the
polluters to pollute as much as they possibly can. The evidence, the latest emissions
projections, suggest that, in the absence of constraints—and there are none: no constraints, no
cap, no penalties, no nothing after tonight until, supposedly, sometime out in 2016—
Australia's greenhouse gas emissions will increase by around five per cent or six per cent in
2014-15. We are already seeing that with the increase in emissions from the electricity sector
in the few months since the abolition of the carbon price.

What do we have? We have increased emissions, particularly in the electricity sector—the
big utilities—and now we are going to have, in the next couple of years, a perverse incentive
for the big polluters to pollute as fast and as hard as they can. The Prime Minister ran around
the country saying, 'Axe the tax'. If a baseline were genuinely constructed, if it were a real
baseline, then some corporates would exceed their baseline—and should therefore pay a
penalty. That would be a tax.

You have a choice. You can have an emissions trading scheme based on a cap—a limit
beyond which your greenhouse emissions are not allowed to go. You have that cap and then
you trade under it. The alternative is to impose a tax. This scheme, if it is genuine, is Prime
Minister Abbott's tax. If it is not genuine—if he wants to avoid the label 'tax'—then it is a joke
and there will be no emissions reduction. Industry will just inflate their emissions before the
baseline gets measured so that they get a fabulously high historical level—and never pay. It is
the big polluters determining their own future, not the community determining how the big polluters will be reined in.

As for this idea that this will lead to incentives for innovation—no, it will not. It will lead to ongoing rust bucket, uncompetitive behaviour. As the rest of the world is moving fast to change their regulatory environment to pull down emissions, to improve energy efficiency and to become more cost-competitive with respect to their emissions, Australia is slipping further and further behind. We will be more uncompetitive, have more rust bucket utilities and large energy users. We will go backwards at a great rate. Whilst I see that Senator Xenophon is trying to do something to put some rigour into this scheme, it is lipstick on a pig—and I am not going to support it.

Senator CORMANN (Western Australia—Minister for Finance) (00:54): This is where the rubber hits the road, indeed. When Senator Milne and the Greens talk about the big polluters, who are they actually talking about? You would think they were a bunch of criminals, people out there doing really nasty things. The people Senator Milne is talking about are electricity generators, manufacturers and businesses across Australia employing people. They are actually businesses across Australia that are driving economic growth, creating opportunities and employing people. These are people who make rational decisions.

Senator Milne, I do know that as a result of getting rid of the Labor-Greens carbon tax electricity prices have come down, but they are still not so cheap that it would be rational to waste electricity. It makes good business sense to minimise your level of energy use for your desired economic output. Businesses across Australia for the last few decades have worked without a carbon tax to become more and more efficient. It delivers environmental benefits, but it also makes business sense.

This conspiracy theory of the Greens is that somehow as a result of this decision in the Senate today to provide positive incentives to reduce emissions you will have a bunch of businesses out there that are going to turn around and expose themselves to massive increases in costs just in order to prove that they are this bunch of criminals. Why would you use this pejorative terminology of 'big polluters' in relation to people that all of us in here rely on. We would be sitting here in the dark if your big polluters were not out there generating electricity. You would not be able to fly back to Hobart tomorrow if the big polluters that you are talking about—which include the airlines, I assume—were not taking you there from Canberra, Senator Milne. The point is that you are talking about 'big polluters' as if that is some abstract concept of a bunch of nasty people out there who are doing terrible things to the community. Guess what? The people who you describe as 'big polluters' are businesses across Australia that are driving our quality of life, driving economic opportunity and providing opportunity to people across Australia.

The reason we are having this debate is because Labor and the Greens in government got the balance wrong. What we are working on here is getting the balance right. We are working to get the balance right. We are working to ensure that we can build a stronger, more prosperous economy where everyone can get ahead and do it in an environmentally sustainable way. The Labor-Greens carbon tax did nothing for the environment because all it did was shift emissions to other parts of the world. You did not contribute to a reduction in greenhouse gas emissions at all. You made less energy efficient and less emissions efficient businesses overseas more competitive. You helped them take market share away from
equivalent businesses here in Australia. Economic activity, jobs and emissions all went overseas into areas where, for the same level of economic output, the emissions were going to be higher. That was the result of the Labor-Greens carbon tax.

What we are trying to do here is make a genuine effort to provide positive incentives for businesses across Australia to pursue emissions reductions that are cost-efficient and that do not hurt the economy. We are very grateful to the Palmer United Party, the Australian Motoring Enthusiast Party, Senator Madigan and Senator Xenophon on this occasion for the very constructive approach they have taken to this. This is a good decision for Australia. This is a good decision for our future. It will help build a stronger, more prosperous and environmentally efficient Australia.

Senator MILNE (Tasmania—Leader of the Australian Greens) (00:58): The only thing the big polluters are driving are donations into the Liberal Party. That was pretty evident at ICAC. You only have to look at ICAC to see where donations are coming from and where they are going. What we have heard here is that the finance minister of Australia cannot read a greenhouse gas inventory, it would seem. He probably does not even know it exists. He is making all these ridiculous claims about the carbon price not bringing down emissions in Australia. He should go and look at the inventory and see where emissions have come down. Guess where they are going up? There are fugitive emissions from coalmines and coal seam gas projects. Who is responsible for that? It is the polluters. More coalmines means more fugitive emissions and more problems.

What was really fascinating was Senator Cormann’s discussion just then about how the big polluters are going to respond to voluntary incentives. What nonsense. We had the Energy Efficiency Opportunities Act in this parliament. That was a voluntary act. It required the companies to report on the energy efficiency opportunities that they had, in the hope that their boards would recognise those opportunities and actually implement them, and guess what? They didn't and they won't, because they don't have to. Just because they are told that they can save money—it is a perverse thing, but they go and spend the money on other things, not on energy efficiency. You have to actually make it mandatory.

I argued that at the time with the former Labor minister Chris Evans, who was taking this bill through the parliament. I said then, 'Unless you require them to implement those energy efficiency opportunities, they won't do it.' But now we have a ridiculous scenario where the minister is trying to suggest that these industries will just, out of the goodness of their hearts, decide to respond to the energy efficiency opportunities. They will not, because the Liberal Party, the Abbott government, supported by Labor, actually repealed the energy efficiency opportunities legislation here a couple of months ago, so now there is nothing that requires those companies to even identify what their energy efficiency opportunities are, let alone implement them.

So let us not have a load of nonsense in here about how incentives are going to drive energy efficiency. They will not. Rorting is all that they will do—sticky fingers in the hands on the taxpayer dollar. This is about subsidies. This is about paying them to do what they should be doing anyway. It is about, once again, windfall gains and ripping off the public purse for the big polluters in Australia, for emissions to increase and to inflate baselines. It is going to be a complete debacle, and that is why we do not support it.
Senator XENOPHON (South Australia) (01:01): Before I address the specific matters in respect of these amendments: I just got a text from someone saying that maybe we should reduce emissions by adjourning and turning off the lights!

I just want to deal with these matters in short order. The alternative is no safeguard at all. In relation to Senator Singh's very pertinent question: this will apply to all large emitters as defined in the act—not as many as there were under the former government's legislation, but it will apply to, I think, about 350 companies in terms of a certain level of emissions as defined in the legislation. This is a compromise. The alternative is to have no safeguard mechanism at all.

In relation to the concerns raised by Senator Milne, and I thank her for raising them, about what is to prevent a company from pumping out and polluting in terms of its baselines in order to get a higher average baseline, I think that is unlikely for a number of reasons. Firstly, the baselines need to be set in consultation with the advice of the Clean Energy Regulator, and I think that that provides a safeguard—no pun intended!—in itself in respect of that. I think that must be taken into account. There is also another overarching principle that must be taken into account. Because the government is not going down the path of international permits, it means that the baselines for Australian industry will need to be actually stricter and more rigorous than otherwise would have been the case, so I think that there are some positive disincentives for companies to try to circumvent the system, because the Clean Energy Regulator will be part of that process. What will a company do? Will it suddenly start using twice as much energy in the next 12 months knowing that that is going to cost an enormous amount of money and that it would far outweigh any potential savings that it thinks it could make by having a slightly higher baseline? That does not make sense to me.

I understand the concerns. The alternative is nothing at all, and there is that objective of a five per cent target, as mild and modest as it is. In the absence of the safeguard mechanism there will be nothing. In respect of that five per cent target, in the absence of international permits, companies will need to get on their skates to make sure that they do operate more cleanly and more efficiently in order to meet that target.

Senator SINGH (Tasmania) (01:24): Just in response to Senator Xenophon. I acknowledge what Senator Xenophon has tried to do with this amendment, but it really is an attempt to patch over some very bad legislation to start with. With that in mind—

Senator Xenophon interjecting—

Senator SINGH: It is very much a patch! I am not sure what the size of that patch is. But with the fact that it does not come into effect until 2016, therein lies one of the problems with the patch as it is. What is there in the meantime? There is nothing in the meantime; for a good 12 months there is nothing. I would assume that it means that pollutants can do as they choose, at will, and pollute as much as they want.

I understand that he has tried to make a decent amendment to this, but it is flawed from the outset. And because it is flawed from the outset it is really not going to make a hell of a lot of difference, unfortunately. Senator Cormann can try to gloss over it with the arguments that he raised in acknowledging the amendment, but we know what this is.

I would also question the number of companies that it does affect. Yes, it is not anywhere near as many as under the carbon pricing legislation that was in place. I know that Senator
Xenophon said it was around, I think, 300 or something—I am not sure about that. In any case, it is very much a bandaid approach to a very flawed piece of legislation that really should not be brought into law in this country. It is simply a waste of taxpayers money.

The CHAIRMAN: The question is that amendments (2) and (1) on sheet 7587 be agreed to.

The committee divided. [01:10]

(The Chairman—Senator Marshall)

Ayes ......................31
Noes ......................29
Majority...............2

AYES

Abetz, E
Birmingham, SJ
Bushby, DC
Cash, MC
Cormann, M
Fawcett, DJ (teller)
Heffernan, W
Lambie, J
Macdonald, ID
Mason, B
Muir, R
Parry, S
Ronaldson, M
Seselja, Z
Wang, Z
Xenophon, N

Bernardi, C
Brandis, GH
Canavan, M.J.
Colbeck, R
Edwards, S
Fifield, MP
Johnston, D
Lazarus, GP
Madigan, JJ
McKenzie, B
O'Sullivan, B
Payne, MA
Ruston, A
Sinodinos, A
Williams, JR

NOES

Bilyk, CL
Cameron, DN
Conroy, SM
Day, R.J.
Gallacher, AM
Ketter, CR
Lines, S
Marshall, GM
McLucas, J
Moore, CM
Polley, H
Rice, J
Singh, LM
Urquhart, AE (teller)
Wright, PL.

Bullock, J.W.
Collins, JMA
Dastyari, S
Di Natale, R
Hanson-Young, SC
Leyonhjelm, DE
Ludlam, S
McEwen, A
Milne, C
O'Neill, DM
Rhiannon, L
Siewert, R
Sterle, G
Whish-Wilson, PS

PAIRS

Back, CJ
Bullock, J.W.
Carr, KJ
Fierravanti-Wells, C
Peris, N
Question agreed to.

The CHAIRMAN (01:14): The question is that the bill, as amended, be agreed to.

The committee divided. [01:14]

(The Chairman—Senator Marshall)

Ayes ...................... 31
Noes ........................ 29
Majority.................. 2

AYES

Abetz, E
Bernardi, C
Birmingham, SJ
Brandis, GH
Bushby, DC
Canavan, M.J.
Cash, MC
Colbeck, R
Cormann, M
Edwards, S
Fawcett, DJ (teller)
Fifield, MP
Heffernan, W
Johnston, D
Lambie, J
Lazarus, GP
Macdonald, ID
Madigan, IJ
Mason, B
McKenzie, B
Muir, R
O'Sullivan, B
Parry, S
Payne, MA
Ronaldson, M
Ruston, A
Seselja, Z
Sinodinos, A
Wang, Z
Williams, JR

NOES

Bilyk, CL
Bullock, J.W.
Cameron, DN
Collins, JMA
Conroy, SM
Dastyari, S
Day, R.J.
Di Natale, R
Gallacher, AM
Hanson-Young, SC
Ketter, CR
Leyonhjelm, DE
Lines, S
Ludlam, S
Marshall, GM
McEwen, A
McLucas, J
Milne, C
Moore, CM
O'Neil, DM
Polley, H
Rhiannon, L
Rice, J
Siewert, R
Singh, LM
Sterle, G
Urquhart, AE (teller)
Whish-Wilson, PS

Wright, PL
Question agreed to.

Bill, as amended, agreed to.

Bill reported with amendments; report adopted.

Third Reading

Senator CORMANN (Western Australia—Minister for Finance) (01:17): I move:

That this bill be now read a third time.

Senator SINGH (Tasmania) (01:17): We have witnessed here tonight a 7¼-hour debate in these extended sittings. This government did a dirty deal with the Palmer United Party to ram through this very bad legislation. They made us sit very late and complained the entire time when any scrutiny of the bill was raised. What we have ended up with, what Australia has ended up with, is a dud piece of legislation that does nothing to address climate change. It does nothing to address carbon pollution. It will not meet our five per cent reduction target by 2020. It has no backing by scientists, no backing by economists and no backing by Malcolm Turnbull—we know that for sure.

Here we have a dodgy deal stitched up between the Palmer United Party and the government. The government has absolutely sold out the Palmer United Party with the gesture, as the minister has called it, to have a review of an emissions-trading scheme that anyone could find on Wikipedia, which the minister is so familiar with. This government has no intention of introducing an emissions-trading scheme. It may have given the Climate Change Authority a new lease of life to do some research into and review such a scheme, but we know very clearly that it has dudged Clive Palmer in this deal because it has no intention at any stage in the future of introducing such a scheme.

The real embarrassment will be next year when this Australian government presents to Paris its dud policy, its backward step, that it has achieved tonight through its dodgy deal with the Palmer United Party. While the rest of the world moves forward in relation to climate change—while the rest of the world moves far forward—this country has moved backwards. The only country to move backwards on climate change is this country under the Abbott government. That is the legacy of this Minister for the Environment, who sources Wikipedia, who thinks there are walruses in the Antarctic, who thinks there are still Tasmanian tigers living in Tasmania, who resorts to doing a dodgy deal—selling out completely on his PhD, that is for sure—will end up going to Paris next year having sold out this country with his backward direct action policy. There is no direct action about it. There is a lot of direct inaction.
There is a lot of shame hanging over this country tonight as we now have to live with this dud policy done by this dud of a government stitched up with a minor party when we know the election promise that was given in 2013 was: 'No deal: no deals with the Greens, no deals with the minor parties, no deals with the Independents.' What a lie that was! The deal of the century has been made tonight and it is right here in the Senate that it has passed. It is a shame on this government that it has done so, because not only have you sold out yourselves and everyone else in this country you have sold out the children of this country and the future of this nation. It is a disgrace. The Labor Party will oppose this bill and will stand for decent climate change policy. That is a cap on emissions and that is an emissions trading scheme. Shame on this government.

**Senator IAN MACDONALD** (Queensland) (01:21): I thank Senator Cormann and Senator Birmingham for their work today. They have done Australia a service. I pay tribute also to Mr Greg Hunt, who has done a magnificent job for the environment since the last election. Not only did Mr Hunt actually bring the Labor Party to honour its promise before the 2010 election that there would be no carbon tax he was able to allow the Labor Party to honour that commitment. He has achieved what we set out to achieve. He has also tonight, thanks to Senator Cormann and Senator Birmingham, got the direct action policy well on the way. For that he deserves the credit of this chamber and indeed the thanks of all Australians.

**Senator MILNE** (Tasmania—Leader of the Australian Greens) (01:23): The government and the Palmer United Party may well have done a deal which will be, as Malcolm Turnbull has said, 'fiscal recklessness on a grand scale'. It is a waste of $2½ billion that will not reduce emissions by the five per cent that is required. Australia still does not have a policy to bring down greenhouse gas emissions. Direct action is not designed to do that. It is a policy to subsidise the big polluters whose hands will be out in excitement as we now see Australia shamed. As the G20 comes to Australia this is the best that will be on the table. Let me say that all of those other countries will see this for the sham that it absolutely is. This government has no policy in place to bring down emissions, no safeguards in place, no cap on emissions, just a slush fund for the big polluters who will now go in with a perverse incentive to increase their emissions. That is what we will see in a period of a climate emergency. This has been a disgrace; it is a disgrace. The Palmer United Party has helped the Abbott government take away the price on polluters and instead pay polluters. That is their shame.

**Senator XENOPHON** (South Australia) (01:24): At this very late hour, I indicate that this legislation is far from perfect, but we are not debating the repeal of the carbon tax. We are debating whether we have any form of abatement policy in this country. As imperfect as this legislation is, there will be safeguard mechanisms in place, there will be stricter methodology in place and there will be hundreds of carbon abatement projects that will be rolled out as an extension of the Carbon Farming Initiative. That has to be a good thing.

There will still be a climate change authority that will have a watchdog role as to how this rolls out, which is a good thing. There will be a clean energy regulator and there will be rigour in the methodology. Time will tell, but I think that we now a very different direct action scheme than the one that Malcolm Turnbull was critical of a couple of years ago. This is a significant improvement on what we had previously. Finally, I thank the Clerk, her staff and the security guards who have stayed back while we have tried to sort this mess out.
The PRESIDENT: The question is that the bill be now read a third time.
The Senate divided. [01:30]
(The President—Senator Parry)

Ayes .................31
Noes ..................29
Majority ..............2

AYES
Abetz, E
Birmingham, SJ
Bushby, DC
Cash, MC
Cormann, M
Fawcett, DJ (teller)
Heffernan, W
Lambie, J
Macdonald, ID
Mason, B
Muir, R
Parry, S
Ronaldson, M
Seselja, Z
Wang, Z
Xenophon, N

Bernardi, C
Brandis, GH
Canavan, M.J.
Colbeck, R
Edwards, S
Fifield, MP
Johnston, D
Lazarus, GP
Madigan, JJ
McKenzie, B
O'Sullivan, B
Payne, MA
Ruston, A
Sinodinos, A
Williams, JR

NOES
Bilyk, CL
Cameron, DN
Conroy, SM
Day, R.J.
Gallacher, AM
Ketter, CR
Lines, S
Marshall, GM
McLucas, J
Moore, CM
Polley, H
Rice, J
Singh, LM
Urquhart, AE (teller)
Wright, PL

Bullock, J.W.
Collins, JMA
Dastyari, S
Di Natale, R
Hanson-Young, SC
Leyonhjelm, DE
Ludlam, S
McEwen, A
Milne, C
O'Neill, DM
Rhiannon, L
Siewert, R
Sterle, G
Whish-Wilson, PS

PAIRS
Back, CJ
Fierravanti-Wells, C
McGrath, J
Nash, F
Reynolds, L

Carr, KJ
Peris, N
Wong, P
Faulkner, J
Ludwig, JW
PAIRS

Ryan, SM  Waters, LJ
Scullion, NG  Brown, CL
Smith, D  Lundy, KA

Question agreed to.
Bill read a third time.

ADJOURNMENT

The PRESIDENT (01:32): Order! I propose the question:
That the Senate do now adjourn.

Middle East

Senator STERLE (Western Australia) (01:32): I rise to condemn the recent remarks from the member for Fremantle, Melissa Parke, in support of a campaign of boycotts, divestment and sanctions against the state of Israel. By supporting campaigns for BDS promoted by the likes of Omar Barghouti, the member for Fremantle shows that she is ill-informed and her comments are simplistic and, unfortunately, inflammatory.

The member supports boycotting Israeli and Jewish businesses and in her speech praises the BDS movement headed by Mr Barghouti, who has said on a number of occasions that he wants an end to the Jewish state. His BDS movement is not an opposition to settlements, it is an opposition to Israel's existence and for Israeli Jews at best to live as a minority under a Muslim majority. Mr Barghouti has said:
Going back to a two-state solution, beside having passed its expiry date, it was never a moral solution to start with.
He has said:
The two-state solution for the Palestinian-Israeli conflict is really dead. Good riddance! But someone has to issue an official death certificate before the rotting corpse is given a proper burial and we can all move on.
He has said:
… a unitary state [is] where, by definition, Jews will be a minority.
I am convinced that the member for Fremantle would not like to live under sharia law where women's rights are heavily constrained. Why does she demand that Israeli women who live in a thriving, open democracy where women have full rights be put in a situation where their rights would be reduced to that of women living under Hamas's rule in Gaza? I can tell you that, as an elector for over 35 years in the federal seat of Fremantle, I certainly would not prefer sharia law over the commitment to democracy, equality and personal liberties that Australia and Israel share.

It is time that the member for Fremantle stopped spouting propaganda that comes directly from organisations and groups that are devoted to genocidal ideologies. At a time when we are seeing so many examples around the world of the consequences of Islamic extremism, it is quite disgraceful that the member for Fremantle would support a movement that would isolate a liberal democracy with the intention of its ultimate dismantlement.

In addition, the Labor Party's position on this issue is very clear. As the Leader of the Opposition confirmed in a statement yesterday, Labor's position on this matter is crystal clear:
The Labor Party opposes the BDS campaign – it has no place in our society. I stand for engagement with Israel at every level. Peace in the Middle East will only be achieved by the parties negotiating a mutually equitable outcome; Labor does not regard the BDS campaign as contributing to this outcome.

While I am all for internal debate within the Australian Labor Party, there are appropriate forums in place for such debate to be had. Should the member wish to bring this issue to the attention of her colleagues, I would encourage her to go through the proper processes rather than to continue to make public statements that, at best, are unhelpful and, at worst, incite greater animosity between communities. Unfortunately, the member needs to cease her support for divisive campaigns, like the BDS movement, and support a more constructive dialogue on the issues facing both Israelis and Palestinians.

**Australian Labor Party**

**Senator McKENZIE** (Victoria) (01:36): It gives me great pleasure to rise tonight to participate in the adjournment debate. This fortnight, government senators have worked very hard to demonstrate to the public the co-dependent relationship between the ALP opposition and the union movement. We have hoped to highlight the abuse of the rule of law, of decent behaviour, of agreed tenets of safety in the workplace, free from bullying and harassment. We have sought the support of the opposition to fight this ill, particularly in my home state of Victoria. But instead there has been silence and often there has been defence—running a protection racket, indeed—for this sort of behaviour.

In the other place, the extent of this relationship played out in a debate which should have centred on providing boarding provisions for Indigenous students—$7 million in additional funding for specific schools to provide this service for some of the most disadvantaged students in our community. Instead, we actually had a lesson in ALP-union co-dependency. The debate centred around ensuring Indigenous students in remote locations receive support to overcome the extra challenges they face when they head to boarding school. Many of the schools supportive of these students have come to the government pleading for these extra funds, and the need for more money was confirmed by the findings of an independent review.

It is hard to imagine why there would be any opposition to this notion. Indeed, the opposition in the other place passed measures on Monday, 20 October. On 2 October, the shadow minister for education, Ms Kate Ellis, promised the House of Representatives:

We will not hold up this legislation because we know it is important that funding goes to Indigenous boarding schools as well as independent special schools.

Ms Ellis was right then. It is so important. As recently as Monday, 20 October, the shadow minister for health, Ms Catherine King, pledged:

Labor will not stand in the way of the measures … that ensure that funding will flow to independent special schools next year. This is an important guarantee to make for those schools.

Ms King was right then; it is an important guarantee.

Shadow assistant minister for education, Ms Amanda Rishworth, was even more enthusiastic, saying:

It sounds too good to be true, but believe it or not, such a program was underway and becoming a reality under the previous Labor government.

Shadow minister Rishworth was not quite right. The program was not becoming a reality under Labor. Indeed, that would have been too good to be true.
One of the purposes of the measures, according to the independently written explanatory memorandum, is to address a number of errors and omissions that occurred during the original preparation of the act, which undermined the intended operation of the act and creates funding and regulatory uncertainty for schools. This is another example of sloppy work by the previous Labor government. They rushed through legislation without really knowing what they are doing, and once again the government is required to clean up Labor's mess.

After all this glowing praise from Labor in the other place for the measures, we could expect bipartisan support as it moved forward, but Labor has done a backflip. What happened? Perhaps it was cuts to funding from schools. No, there was actually considerably more money for education in the measures—$6.8 million to be provided in 2014 for the Indigenous Boarding Schools initiatives, as identified in the 2014-15 budget. Also, an additional $2.5 million will be paid to certain independent special schools and special assistance schools, in 2015.

What could possibly prompt Labor to be against $7 million for Indigenous boarding schools and $2.4 million for special schools. The real question is not what would make Labor say 'no', but who could make Labor say 'no'. I found the answer in an article titled 'Union slams changes to Gonski reforms' in the Bundaberg NewsMail of 21 October 2014, the day after Labor passed the measures in the House of Representatives. The newspaper story was based on a media release by the Australian Education Union deputy federal president, Correna Haythorpe, headlined 'Pyne makes another attack on Gonski'. It was pretty shrill stuff. It is hard to imagine our brilliant but diminutive Minister for Education assaulting the more substantial bulk of David Gonski. It is up to Labor to explain why the AEU does not like the bill. One suspects it has something to do with the fact that the schools it funds, the schools where Indigenous students board, are non-government schools and therefore are not under the total control of the AEU.

The Bundaberg NewsMail is an excellent newspaper, according to the local MP for Hinkler, my friend and party colleague Mr Keith Pitt. The journalist did his job and exercised due diligence and sought comment from the Labor Party. They got a hold of Ms Catherine King, perhaps because she is the only Labor frontbencher representing an electorate in regional Australia. This, you will remember, is the same Ms King who promised parliament one day earlier that Labor will not stand in the way of the measures in this bill. This is an important guarantee to make for those schools. Yet, Ms King did a Cirque du Soleil backflip after hearing that the union bosses were not happy. All of a sudden the changes, which she had voted yes to less than 24 hours earlier, now 'risked the crucial two years of Gonski funding in 2015 and 2016, as well as putting in doubt extra loadings for students with disabilities among others.' Of course, that is not actually true, but truth has never got in the way of a union boss pulling the strings of the parliamentary Labor puppet. It reminded me of Senate budget estimates last week, when the Education and Employment Committee was hearing from the director of Fair Work Building and Construction, Nigel Hadgkiss. Mr Hadgkiss was providing evidence under oath about CFMEU members brutalising, harassing and abusing him and his staff. Female public servants visiting building sites were being abused through loudhailers, with insults so sexist and extreme that I cannot repeat them in this place. The CFMEU even had Mr Hadgkiss's wife under video surveillance as she returned from her mother's funeral. As chair of the Education and Employment Committee, I was keen
to hear what Labor, represented by Senator Cameron, would have to say about this appalling behaviour against women, and indeed public servants or any worker. After all, Labor has spent much of the last four years fabricating a narrative of misogyny in coalition ranks. Surely Labor would be revolted by the misogynistic behaviour of the CFMEU and its officials.

It turns out they were more interested in pleasing paymasters than condemning this abusing behaviour. The whole line of questioning by Labor was about accusing the Fair Work Building and Construction Commissioner of breaching the privacy rights of a convicted CFMEU organiser who lied about his criminal past, including recklessly causing injury, criminal damage, theft, and going equipped to steal in order to gain a right of entry permit.

So whether it is the AEU, or the CFMEU or any other union, we know it is the union that calls the shots in the Labor Party in 2014. What happened to the reforming, economic growth orientated Labor Party of yesteryear that gave us the great income-contingent loans scheme, which has underpinned access to our higher education system for a wide variety of Australians.

All of this would be funny if it did not seriously impact on the lives of the most disadvantaged Australians—Indigenous children from remote Aboriginal communities and children with special needs. The government's current legislative agenda needs to be passed in this Spring sitting so that we can provide additional funding, not only for Indigenous boarding students in 2014 but to other key areas of government and public spending and public service around education and research to give certainty to our educative system and to independent, special and special assistance schools that their funding will not be cut in 2015. If we do not pass it they will not have that money delivered.

For once in their lives, Labor senators should put the interests of the poorest Australians ahead of the fat-cat union bosses. Set yourselves free!

Law Enforcement
Shipping
Ebola

Senator LAMBIE (Tasmania—Deputy Leader and Deputy Whip of the Palmer United Party in the Senate) (01:45): Tasmania, like the rest of Australia, is in the grip of an ice epidemic. It is a terrible drug that takes over these users' lives and destroys families. Today I asked Senator Abetz, the Leader of the Government in this place, a number of questions about the ice crisis. His answers did not give me confidence that his government or his political party has a policy answer to this crisis, which needs to be addressed immediately. He was unable to answer why he and other members of the Liberal and National Parties have allowed the Rebels motorcycle gang to set up headquarters opposite a Tasmanian primary school.

To be fair to the senator, the Rebels outlaw motorcycle gang did not establish the headquarters in Hobart under the recently elected Liberal government. It was the Tasmanian Labor-Greens government over many years that allowed outlawed motorcycle groups to establish, grow and prosper their business. However, it is the Liberal Party that is now in power and it is up to the Liberal Party to put in place laws, policies and programs which will put in jail the drug dealers and protect our children from the scourge of ice and other modern drugs. These drugs are 'one pill can kill and one can hook.'
Senator Abetz's reply to my question today was not good enough. When you cut through all his political waffle and excuses, Senator Abetz was saying: 'Outlaw motorcycle gangs and the ice epidemic are not my problem. Do not bother me with it; talk to local or state governments. I am an important federal senator.' Sometimes I get the impression that I am the only politician in Tasmania who finds it disgusting that an outlaw motorcycle gang can set up headquarters on a site which brazenly overlooks a schoolyard—and a primary school at that.

This evening I have listened carefully to the Greens in their debates. If only they displayed the same passion about protecting our children from outlaw motorcycle gangs and ice, as they do about stopping climate change and ice sheets melting—something they know they will never be able to do because the climate is always changing. Why don't the Greens put the same energy into protecting our children from outlaw bikers and their filthy drugs, as they put into being pimps for Indonesian people smugglers? It is no wonder we are now in the middle of an epidemic of ice and other dangerous drugs, when we have had politicians like Eric Abetz and Christine Milne in power for far too long.

The ice crisis is linked to the rise of the influence of outlaw motorcycle gangs. I know that there is a sense of fear in our Tasmanian community and a reluctance of people to speak out. I have met with senior journalists who know exactly what is happening—who is making the drugs and who is selling them. Every Tasmanian politician must take a hard line, show some courage and speak out against the people who make and peddle these evil drugs to our children. We all know who is profiting from our children's addictions—it is the outlaw bikie scum. Who is the worst scum? Is it the scum who makes and sells these drugs to our children and young people? Is it the scum who lead our community and know exactly what has been happening and yet have deliberately turned a blind eye for decades? How many politicians have quoted Edmund Burke's famous saying in their first speeches:

All that is necessary for the triumph of evil is that good people to do nothing—and then sat back and enjoyed the perks of office? These politicians are either scared or too lazy, or both, to take a stand up to these outlaw bikie scum who deliberately target and enslave our children with these evil drugs. Apart from locking them up and throwing away the key, what else can we do to break this cycle of addiction?

I addressed that issue this afternoon when I asked Senator Abetz this question:

... will the minister join with me and help to introduce laws into this place which will give the parents of children—those 18 and under—who become hooked on highly addictive drugs like ice the legal right to involuntarily detox their children of this dreadful drug?

His response, surprisingly, did not totally disappoint me. He did not dismiss the legal concept out of hand, so I hope that the government will consider my idea. It is very simple. At the moment, no parent as far as I am aware has in a state of Australia the right to involuntarily detox their children of this dreadful drug.

The current medical system does not allow for involuntary detox of any child, and consequently the drug dealers and makers are happy because they know they will be
guaranteed a steady supply of young customers. The laws which protect the civil rights of children who are controlled by their addiction to drugs also take away the rights of loving parents to protect their most precious gifts from God. I have heard stories of desperate parents who have tricked their drug addicted children to outer islands of Fiji and other parts of the world and then kept them there until the drugs ran out of were destroyed. Then they waited for their child to go cold turkey detox and, after four weeks of yelling abuse and wild behaviour, they got to once again talk to their children and not the drug. They gave their child a chance to make decisions for themselves again in life and know that it was not the drug making the decision for their child. I know people will disagree with me, but I can guarantee that those parents who sat helplessly and were forced to watch their family life spiral out of control will agree with my remedy.

There must be a better way of protecting our children. The current law forces parents to wait for the phone call from police to say their runaway 17-year-old is in detention and then get a good night's sleep because at least you will not get a phone call or knock on the door that tells you that your child has been found dead in the gutter with a needle or ice pipe nearby. Changing the laws to strengthen the rights of parents to ensure that their children receive life-saving medical treatment, however, is only one part of the solution. Other action we must take is to ensure that enough medical resources and rehab centres are available to our families. According to research I commissioned from the Parliamentary Library:

In 2012-13, over half (56 per cent) of the 714 publicly funded alcohol and other drug treatment agencies in Australia were non-government, and these agencies provided almost two-thirds (63 per cent) of treatment episodes that were closed in 2012-13.

It should be noted, however, that a significant number of these agencies are likely to provide counseling, information and education and support and case management only, and not rehabilitation and withdrawal management (detoxification) programs.

The table below breaks down government and non-government treatment agencies by jurisdiction. According to the table from the Australian Institute of Health and Welfare contained in the parliamentary research paper, out of 317 government alcohol and other drug treatment agencies in Australia, seven were located in Tasmania. That is one treatment centre for about every 70,000 Tasmanians. Compare that with New South Wales, which has 186 government alcohol and other drug treatment agencies, making for one treatment centre for 40,000 people in New South Wales, and South Australia, which has 48 government alcohol and other drug treatment agencies, making one treatment centre per 33,000 people in South Australia. This means that, when compared with both New South Wales and South Australia, Tasmania on a population basis has around half the government run alcohol and other drug treatment agencies.

This is an issue that all Tasmanian government representatives, whether local, state or federal, should be concerned with, even if they do not agree with my proposition to change the laws to allow parents the right to involuntarily detox their drug-affected children. This is another issue that I will be making a priority, and eventually this place will see a bill—it may be a private member's bill; it could be a government bill I cooperate on, but a bill nonetheless—which will empower and make legal, Australia-wide, the involuntary detox of children addicted to the terrible drug ice.
I now turn to a different subject—coastal shipping. Many times, in my short service in the
chamber, I have politically smacked a number of senators of this place—because they
probably deserved it. However, tonight I would like to pat Liberal Senator Colbeck on the
back after he delivered a fine speech in this chamber about the costs and impacts of coastal
shipping for Australia and, in particular, our home state of Tasmania. Senator Colbeck
successfully argued that the Labor reforms to coastal shipping have catastrophically failed and
hurt Australian industry.

This has been made clear to me in a number of meetings I have had with some of
Tasmania's biggest employers and businesses who all rely on coastal shipping and other
vessels to move their products to mainland and overseas customers. One of the important
points that Senator Colbeck made is that, since the Labor reforms, there are now 64 per cent
fewer vessels on the Australian coastline and two million tonnes less freight.

Senator Colbeck also notes that today shipping costs Bell Bay Aluminium $29.70 per
tonne, compared with $18.20 when the Labor laws were first introduced, yet the rate offered
by a foreign vessel today remains at $17.50. Bell Bay Aluminium—the Greens will call it one
of the biggest polluters; I call it one of our biggest employers— is hit with an extra $4 million
per year in shipping costs because of a failed Labor-Greens policy. These extra costs, like the
outrageous and unfair mainland RET policy, endanger the jobs of thousands of direct and
indirect Tasmanian jobs.

Senator Colbeck correctly highlighted that $550,000 of additional shipping costs were
added to another great Tasmanian company and employer, Simplot. I will have more to say
shortly about that company and the challenges it faces keeping 778 employees in a job
because of hostile and unfair industrial action.

Senator Colbeck pointed out that he spoke to a Tasmanian business that told him that it was
'cheaper to bring product from New Zealand to every port in the country except Melbourne
than it is to bring it from Tasmania'. Everything Senator Colbeck spoke about in this chamber
is true, in my opinion, and I agree with his call to change the laws on Australia's coastal
shipping in order to protect the viability of our major businesses and the jobs of tens of
thousands of Tasmanians.

There will be some union members who are alarmed by these comments because they will
think that their members' jobs will under threat. My message to them—apart from, 'Get your
mates, who are about to shut down Simplot and lose 778 food processing jobs to New
Zealand'—is this. We can work together. We can do both. We can protect your members' jobs
and lower the cost of coastal shipping for Tasmanian and Australian businesses.

Once again, I congratulate Senator Colbeck on a fine speech. I cannot guarantee I will say
that of every speech, but I am a big believer in giving credit where credit is due.

I now turn to the issue of Ebola. Despite what some sections of the media in Tasmania say,
this is an important issue for the people I represent. The disclosure recently that each week 15
to 30 people from West Africa are allowed into Australia without proper quarantine stunned
me and many other people. It was just further proof that this government has seriously
mismanged this outbreak. And it has been only by good luck rather than good management
that Ebola has not arrived in Australia and Tasmania.
The heath minister and PM—indeed, the vice-chief of our military—seem to forget the fact that this disease could lie dormant in the human host for up to 21 days and then present as a fever, and then that person, while highly contagious, for days, could walk around spreading the disease to unsuspecting victims. These facts mean that Australia, while ever international air travel from Ebola hot spots is allowed, will not be safe. Indeed, I remind this place of credible predictions that, by January next year, one million people could be infected. That means at least 500,000 will die, and I do not want any of that number to be Tasmanians or Australians.

So I want this government to answer some simple questions that many people have been asking me. Can Ebola be transmitted through airborne contact; flea, tick or mosquito bites; or contaminated surfaces? Can Ebola recur in a patient who survives the first attack of the virus? If so, is that patient contagious while Ebola lies dormant for a period of months or years?

On 17 October, I put forward a five-point action plan for Ebola and received some criticism from some sections of the media, government and public. Most of my recommendations have since been adopted, as the politically correct management of Ebola has unnecessarily endangered millions of Australians. My plan was as follows: ban and make illegal all travel, other than official or military, to and from all African and/or other countries experiencing Ebola outbreaks; immediately boost Customs resources and install thermal imaging at all our international airports in order to ensure that all overseas arrivals are scanned for symptoms of Ebola; establish safe quarantine facilities and dedicated Ebola treatment areas, separate from the main hospitals, close to each international arrival port in Australia; in conjunction with the ADF, establish and properly resource a number of mobile Australian specialist medical teams, similar in organisational structure to the MASH teams of the Vietnam era, capable of domestic and international deployment—they must be equipped to treat and study outbreaks of Ebola and other lethal exotic diseases; and establish an Ebola and other deadly disease medical research unit capable of engaging in and contributing to world-best research. These medical experts must be able to answer common questions about Ebola.

In closing, I would like to thank the hundreds of people who contact my office each week. I try to read as many emails as possible. In relation to Ebola, I have received this email from Ronald Bastian JP, who owns a health and pest management company. Ronald writes:

Dear Senator Lambie

I didn't get to hear the reply to your question regarding the possibility of various insects such as "fleas" possibly carrying the Ebola virus and transferring it to unaffected people … I have sent an email to the World Health Organization with the same enquiry and here is a copy of the email I sent and my contact details at the foot of the email …

Ronald then goes on to write:

My understanding of the spread of Ebola might be scant and I might be considered by the medical staff that are currently handling this epidemic as speaking out of ignorance, but, I am constantly bewildered, not hearing any mention of why insects have not been a consideration for the continuing cross-infection of the virus.

Since historical outbreaks of diseases such as malaria have been contributed to mosquitoes and fleas carrying the bubonic plague via rats, it is crystal clear to me that any sufferer who is constantly exposed to either flying or crawling blood-seeking insects and body-fluid seeking flies, including all species of a parasitic nature that live their entire life cycles on humans as well as animals must be seriously
considered as a possible conduit for cross-infection and ongoing new cases. Parasite insects can travel on individuals on all forms of public transport especially long flights on planes.

I think it is time the government answered my and Mr Bastian's questions about the transfer of Ebola and stopped the nasty personal attacks.

**Climate Change**

**Senator RHIANNON** (New South Wales) (02:04): In the last hour, the Liberal-National government has hammered another nail in the coffin of government action on climate change with the passing of the Carbon Farming Initiative Amendment Bill 2014. But, as is so often the case when governments fail to act on progressive change, people take action, speak up, stage protests and achieve change for the better, and that is what we are seeing in Australia today with climate action. While this adjournment is at five past two in the morning, I am pleased to be making it after the government has shown in the debate tonight the depth of its betrayal of the people of Australia and its ignorance in relation to climate change and in relation to our land, our water and our environment. The contrast between this Liberal-National government and people's actions is telling.

There are some extraordinary people's movements afoot in Australia today. I recently attended the Beyond Coal and Gas conference in Ipswich, Queensland, which brought together hundreds of people from across the nation who are taking on the fossil fuel industry in so many creative ways. One of the most prominent of these is a divestment movement. The Beyond Coal and Gas workshops on divestment from fossil fuel companies inspired many to take similar actions. The Australian National University experience is informative. On 3 October that university made a decision to sell its stock in seven companies. The decision followed lobbying from the university community, wanting them to divest all of their stock from fossil fuels. Instead, the ANU engaged an independent analysis of ASX 300 companies and looked at how they align with their socially responsible investment policy. Their consultants, the Centre for Australian Ethical Research, used an internationally recognised methodology to analyse the environmental, social and corporate governance of ASX 300 companies. The companies are essentially rated on a level of 1 to 5, and the ANU made the decision to divest from any companies which fell into the lowest category. That turned out to be seven companies—in all, $16 million, or about one per cent of the ANU's $1 billion of investment holdings. Those from which they chose to divest were these seven companies: Santos, Oil Search, Iluka Resources, Sandfire, Sirius, Newcrest and Independence Group. Not all of these are even involved in fossil fuels. The university maintains shares in some fossil fuel companies, so really this was a small but positive movement in relation to ethical investment.

The extraordinary response to this movement reveals how the fossil fuel industry and its backers are feeling vulnerable. Prime Minister Tony Abbott called it 'stupid'. Treasurer Joe Hockey said the university 'didn't understand economics'—that is a bit rich, coming from the Treasurer. For weeks running, *The Australian Financial Review* ran largely hostile commentary on the topic. The Minerals Council, of course, cried foul. And then we got to the Senate estimates last week, when the ANU's Vice-Chancellor, Professor Ian Young, was called before the education committee for the first time. The hearing went for over an hour. The Vice-Chancellor said he had received phone calls from the companies, who were trying to convince the university to overturn the decision. While I have had my differences with
Professor Young over his approach to the higher education plans of this government, I have written to him recently to congratulate him for his leadership on climate action through divestment. An article in The Conversation points out that this divestment at ANU involves a sell-off of shares at the low rate of one in 3,000. It is worth emphasising here that this is a small piece of the pie, so what is the fuss about?

The fossil fuel industry is giving every sign it is worried. This is not a surprise—demand for coal is dropping. The most recent data shows the coal use in China is slowing down, even though economic growth continues to rise. Indications are that the international price of coal is not about to recover. Yet here the industry—with government and some opposition MPs cheering them on—tends to continue unabated, but the world is waking up to the lies of the coal industry. But mining companies are still used to getting their favours: the subsidies of coal-related infrastructure, hand-outs with development assistance, low tax rates and law changes if some community group has a win in court. These are a few examples of what the mining industry has come to expect and has received for decades from successive Liberal-National and Labor governments. If its easy ride is challenged, we hear its companies and its peak organisations, the state and national mineral councils, squawk about how the economy will fail and how jobs will go, hoping that we will forget that it is they who make the decisions about where they invest their money and it is they who fire the workers when their profits are low.

Many great organisations are spearheading action on climate change. In the last month, 350.org organised an effective and most memorable tour by the Pacific Climate Warriors. Representing 13 of the Pacific island nations facing devastation from climate change, these brave warriors have spent the weeks leading up to the Beyond Coal conference touring the country, highlighting the unequal—I would actually say criminal—impact of the reticence of our government to face up to climate change.

On 17 October, they went out into Newcastle harbour, the biggest coal port in the world, supported by hundreds of people in their canoes. It was an unforgettable sight, with the Pacific islanders taking to the water with the message on their canoes: 'We are not drowning. We are fighting.' I have had the opportunity to join these protests in some years. The organisers are to be congratulated for these creative and courageous protests taking on the massive coal industry. These harbour blockades have been held for a number of years now. They provide an amazing sight, with people in single and double canoes and small boats too enjoying the sunshine and the atmosphere of the harbour and the protest.

In the early years of this protest, I remember, the port authorities would hold off on sending the coal ships through the small protest craft. Increasingly, though, they try to defy the protests and push giant coal ships through the small protest craft. This is what happened this year. The strength of the islanders in their canoes and the strength of the community there were an incredible sight. For half an hour, hundreds of people faced off against a massive coal ship, with absolute bravery and determination, stopping the ship from leaving the harbour. Yes, the coal ship did eventually leave port Newcastle, but the strength of the protest sent the strongest message to the mining industry and the government.

The action inspired people across the country. For the following week, people took their protests to the offices of companies whose actions are driving up greenhouse gas emissions. On the Monday after the harbour action, 50 people descended on Whitehaven Coal offices in
solidarity with the Pacific warriors to protest the mine at Maules Creek, where the company is currently constructing the largest coalmine in the country. Protests continued at Buru Energy in Perth and even at the Minerals Council here in Canberra. Our government may not be making the connections, but people are. The constant bowing down to the coal industry is having real impacts, and this needs to stop.

This is why the call of the Pacific warriors, 'We are not drowning; we are fighting,' reverberated through the Beyond Coal conference venue at the end of their talk. For many, the conference was also a chance to share stories. Many participants were people from rural areas. Many had not been involved in environmentalism or protests of any form before. Many said to me that they felt now that they had no option but to take action against coal and coal seam gas mining. Many of the people at the conference are fighting these issues on a daily basis, often in the face of not only the big companies but also the mining companies' mates in government.

One shocking thing I learnt at the Beyond Coal conference relates to Queensland, where the Newman government have released a health report on coal seam gas. The report claims that there are minimal health risks from CSG in Tara, a region which has been inundated by the industry and serves as a warning to others. This report contains no baseline health data. There was only direct participation from 15 people—only 15—and two by telephone in the whole region. That really is meaningless. This is why communities are up in arms about CSG. Not only is there a lack of scientific analysis to assess health and safety issues; there is no political will to investigate it.

This is what the people of Gloucester have been telling the New South Wales government for years, but, as we know, their concerns are falling on deaf ears. Those politicians in the pockets of the mining industry continue to say yes to mining. This is an area I have had a long connection with. We have seen time and time again here and in other parts of the state and the country that, once the exploration starts, it is effectively the first stage of full-blown mining. The government might make out they have got a rigorous process, they might say they are protecting the environment and that there are all sorts of rules and standards, but, once that exploration starts, the full-scale mining rarely stops.

This is why people at Gloucester are taking direct action—many for the first time. At BeyondCoal I heard about Brett Jacobs, a father of seven children and long-time Gloucester resident, who locked on at his neck to a gate to prevent fracking in the region. I met Brett recently when I was in Gloucester, and I congratulate him for his courageous action. Three others were arrested that day, and the next day there were more arrests. They are continuing their actions. Gloucester residents still have hope. If the government will not stop AGL, they are saying the people will.

What is becoming increasingly clear to me through these actions and the stories I heard at BeyondCoal is that the people recognise the failure of government to act on climate change. People know that they have power and they are ready to take it. They are standing up to fossil fuel companies at the mine sites, in the harbours and through the institutions in which they invest. This is not 'stupid', as the Prime Minister, Mr Abbott, claims. It is not a misrepresentation of what our economy needs. What our economy needs is a planet that can survive and thrive. This is what people at ANU, people in the Pacific, people in rural Australia and workers in the energy sector are telling the fossil fuel industry. The time of the
coal and coal seam gas industry is up and it knows it. Rather than engaging in the unseemly coal rush to bleed the last of the profits from the dying industry, it is time they changed their investment strategy, diversified their own portfolio and reworked their business case. Coal and coal seam gas mining companies take note. The people have spoken. Their voice is growing louder. King Coal is in its death throes.

**Senate adjourned at 02:17**

**DOCUMENTS**

**Tabling**

The following documents were tabled by the Clerk:

[Legislative instruments are identified by a Federal Register of Legislative Instruments (FRLI) number. An explanatory statement is tabled with an instrument unless otherwise indicated by an asterisk.]

- *Australian Communications and Media Authority Act 2005—Radiocommunications (Charges) Amendment Determination 2014 (No. 1) [F2014L01406].*
- *Commissioner of Taxation—Public Rulings—*
- *Customs Act 1901—Customs Regulations 1926—CEO Instrument of Approval—No. 2 of 2014 [F2014L01405].*
- *Horticulture Marketing and Research and Development Services Act 2000—*
  - Payment of Visa Application Charges and Fees in Foreign Currencies (Conversion Instrument)—IMMI 14/101 [F2014L01411].
  - Places and Currencies for Paying of Fees (Places and Currencies Instrument)—IMMI 14/102 [F2014L01413].
Military Rehabilitation and Compensation Act 2004—
Military Rehabilitation and Compensation (Non-warlike Service) Determination 2014 (No. 3) [F2014L01407].
Military Rehabilitation and Compensation (Warlike Service) Determination 2014 (No. 3) [F2014L01408].
Veterans’ Entitlements Act 1986—

Order for the Production of Documents

The Assistant Minister for Immigration and Border Protection (Senator Cash) tabled the following document:

Immigration—Humanitarian intake from ebola-affected countries—Letter from the Assistant Minister for Immigration and Border Protection (Senator Cash) to the Clerk of the Senate (Dr Laing), dated 30 October 2014, responding to the order of the Senate of 29 October 2014 and raising public interest immunity claims.