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the Senate and committee hearings are available at

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SITTING DAYS—2015

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

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

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

Senate Office holders
President—Senator Hon. Stephen Parry
Deputy President and Chair of Committees—Senator Gavin Mark Marshall
Temporary Chairs of Committees—Senators Christopher John Back, Cory Bernardi, Sam Dastyari, Sean Edwards, Alexander McEachian Gallacher, Susan Lines, Deborah Mary O’Neill, Nova Maree Peris OAM, Dean Anthony Smith, Zdenko Matthew Seselja, Glenn Sterle, Peter Stuart Whish-Wilson and John Reginald Williams
Leader of the Government in the Senate—Senator Hon. Eric Abetz
Deputy Leader of the Government in the Senate—Senator Hon. George Henry Brandis QC
Leader of the Opposition in the Senate—Senator the Hon. 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
Chief Government Whip—Senator David Christopher Bushby
Deputy Government Whips—Senators David Julian Fawcett and Anne Sowerby Ruston
The Nationals Whip—Senator Barry James O’Sullivan
Chief Opposition Whip—Senator Anne McEwen
Deputy Opposition Whips—Senators Catryna Louise Bilyk and Anne Elizabeth Urquhart
Australian Greens Whip—Senator Rachel Siewert
Palmer United Party Whip—Senator Zhenya Wang

Printed by authority of the Senate
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<th>Senator</th>
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<td>Abetz, Hon. Eric</td>
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<td>Bilyk, Catryna Louise</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.

**Casual vacancy

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

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

**PARTY ABBREVIATIONS**

AG—Australian Greens; ALP—Australian Labor Party;
AMEP—Australian Motoring Enthusiast Party; CLP—Country Liberal 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
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<td>Prime Minister</td>
<td>The Hon. Tony Abbott MP</td>
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<tr>
<td>Minister for Indigenous Affairs</td>
<td>Senator the Hon. Nigel Scullion</td>
</tr>
<tr>
<td>Minister Assisting the Prime Minister for the Public Service</td>
<td>Senator the Hon. Michaelia Cash</td>
</tr>
<tr>
<td>Minister Assisting the Prime Minister for Women</td>
<td>The Hon. Charles Porter MP</td>
</tr>
<tr>
<td>Parliamentary Secretary to the Prime Minister</td>
<td>The Hon. Alan Tudge MP</td>
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<tr>
<td>Minister for Infrastructure and Regional Development</td>
<td>The Hon. Warren Truss MP</td>
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<tr>
<td>(Deputy Prime Minister)</td>
<td>The Hon. Jamie Briggs MP</td>
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<tr>
<td>Minister for Foreign Affairs</td>
<td>The Hon. Julie Bishop MP</td>
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<tr>
<td>Minister for Trade and Investment</td>
<td>The Hon. Andrew Robb AO MP</td>
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<tr>
<td>Parliamentary Secretary to the Minister for Foreign Affairs</td>
<td>The Hon. Steven Ciobo MP</td>
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<tr>
<td>Parliamentary Secretary to the Minister for Trade and Investment</td>
<td>The Hon. Steven Ciobo MP</td>
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<tr>
<td>Minister for Employment (Leader of the Government in the Senate)</td>
<td>Senator the Hon. Eric Abetz</td>
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<tr>
<td>Assistant Minister for Employment (Deputy Leader of the House)</td>
<td>The Hon. Luke Hartsuyker MP</td>
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<tr>
<td>Attorney-General</td>
<td>The Hon. Michael Keenan MP</td>
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<tr>
<td>Minister for the Arts (Vice-President of the Executive Council)</td>
<td>Senator the Hon. George Brandis QC</td>
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<td>Senator the Hon. George Brandis QC</td>
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<tr>
<td>Minister for Justice</td>
<td>The Hon. Michael Keenan MP</td>
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<tr>
<td>Treasurer</td>
<td>The Hon. Joe Hockey MP</td>
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<tr>
<td>Minister for Small Business</td>
<td>The Hon. Bruce Billson MP</td>
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<tr>
<td>Assistant Treasurer</td>
<td>The Hon. Joshua Frydenberg MP</td>
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<tr>
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<td>The Hon. Kelly O'Dwyer</td>
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<td>The Barnaby Joyce MP</td>
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<tr>
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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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<td>Senator the Hon. Simon Birmingham</td>
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<tr>
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<td>Senator the Hon. Mitch Fifield</td>
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<td>Senate)</td>
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<tr>
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<td>The Hon. Greg Hunt MP</td>
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<tr>
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<td>Senator the Hon. Mathias Cormann</td>
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<tr>
<td>Assistant Minister for Health</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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Monday, 2 March 2015

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

STATEMENT BY THE PRESIDENT
Parliamentary Language

The PRESIDENT (10:01): Over the past few years there has been a marked departure from established standards of parliamentary debate and a tolerance shown towards certain expressions and imputations that were considered unparliamentary in the past and remain contrary to the standing orders today.

Expressions that would until recently have been identified as disorderly, including allegations that members of parliament have lied, have been allowed to stand unchallenged even though they are clearly contrary to standing order 193(3). This rule provides:
A senator shall not use offensive words against either House of Parliament or of a House of a state or territory parliament, or any member of such House, or against a judicial officer, and all imputations of improper motives and all personal reflections on those Houses, members or officers shall be considered highly disorderly.

As the 13th edition of Odgers' Australian Senate Practice explains at page 260:
It is for the chair to determine what constitutes offensive words, imputations of improper motives and personal reflections under this standing order. In doing so, the chair has regard to the connotations of expressions and the context in which they are used.

All suggestions that members have lied—that is, deliberately and knowingly made untrue statements—are disorderly. Remarks to the effect that senators’ statements are untrue or misleading are not necessarily out of order; for the chair to intervene there must be some implication that a senator has deliberately or knowingly made untrue statements. It is for the chair to judge whether that implication is present in any particular instance.

The Deputy President and I have recently met with all temporary chairs to discuss these issues. Senators are advised that chairs will be enforcing these established practices, along with all other rules of debate.

I table a publication summarising these practices, entitled Brief guide to Senate procedure No. 23—Provisions governing the conduct of senators in debate. The publication is available online, both on the public website and through the new intranet site for senators, Senate Connect. Copies are also available from the Table Office.

MOTIONS
Attorney-General
Censure

Senator WONG (South Australia—Leader of the Opposition in the Senate) (10:03): by leave—I move:

That the Senate censures the Attorney-General (Senator Brandis) for:
(1) failing to defend the President of the Australian Human Rights Commission, Professor Gillian Triggs, from malicious attacks;

__________________________
CHAMBER
(2) seeking to obtain—

Senator Abetz: On a point of order, Mr President: I would have thought the decent thing, with a censure motion, would have been to circulate it so that the person who is the butt of the censure motion at least has the wording of it available to enable him or her to know what they may need to be defending themselves against.

The President: It is always desirable to have things circulated in advance, but Senator Wong has only just commenced her opening remarks. Senator Wong, you are in order.

Senator Wong: Thank you, Mr President. I understand the motion is being circulated. I will read it and there will be time in the debate, I am sure, for Senator Brandis to acquaint himself with these matters. I will go back to the beginning of the motion. I move:

That the Senate censures the Attorney-General (Senator Brandis) for:

(1) failing to defend the President of the Australian Human Rights Commission, Professor Gillian Triggs, from malicious attacks;
(2) seeking to obtain the resignation of Professor Triggs by facilitating the offer of an alternative role that would have required her to relinquish her position as President;
(3) refusing to fully account for his conduct when appearing before a committee of the Senate;
(4) undermining Australia's commitment to upholding human rights; and
(5) being unfit to hold the office of Attorney-General.

The opposition understands that a censure motion against a minister is no small thing, and we do not move to censure the first law officer of this nation lightly, but we are moving to censure the Attorney-General because his conduct towards the Australian Human Rights Commission has been deplorable. There is no other word for it.

This man, this Attorney, has directly attacked the independence of a senior statutory office holder within his own portfolio. He has tried to pressure the President of the Australian Human Rights Commission into resigning from her position—but not because of any wrongdoing and not because of any inappropriate action on her part or on the part of the commission. In fact, the Attorney-General has tried to pressure Professor Triggs into resigning precisely because she was doing her job—an important job in a free and democratic Australia, a society that respects human rights and the rule of law.

Fellow senators, recall that this parliament, our predecessors, legislated to establish the Australian Human Rights Commission to act as an independent body—I emphasise 'independent'—to monitor human rights in Australia. That function includes reporting, and at times criticising, governments past and present. For nearly 30 years the commission has carried out that role without fear or favour. Its actions and its public statements have not always been convenient for governments. Over the years it has criticised the policies of both Labor governments and Liberal governments. Yet never before has a government reacted to this criticism so viciously and so personally.

Government senators interjecting—

Senator Wong: I note the interjections by both the Attorney-General and Senator Macdonald yet again fail to acknowledge that the commission's report on this occasion criticises governments of both political persuasions—criticises us as well as the coalition. But there is only one side of politics that has chosen to attack the independence of this commission. Never before has a government launched a full-frontal political assault on the
integrity and standing of Australia's Human Rights Commission. Never before has an Attorney-General not only failed to defend the institution but actively joined in the attack by pressuring the president of the commission into quitting.

If one looks at the institutions, the organisations and the individuals who have criticised this Attorney, it demonstrates and brings home to all the seriousness and gravity of the errors of this Attorney-General. Back in January, we saw legal scholars come out in support of Professor Triggs—even prior to the report being tabled—given the criticisms of her which had already occurred. A range of eminent legal scholars from across the country came out to support her. We have seen—and I had never seen this before—the Attorney-General's conduct criticised by the Australian Bar Association and the Law Council of Australia. Their doing so demonstrates the concern the legal community has with the actions—and the inaction—of the first law officer of this land.

I refer also to Professor Ben Saul, professor of international law at the University of Sydney, who has been highly critical of the Attorney-General. We have seen the International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights, an international organisation, write an open letter to all senators and members in relation to this matter. We have seen the President of the New South Wales Bar Association, Jay Needham SC, being highly critical of the actions of the Attorney-General. In addition, Brian Burdekin, the very first Human Rights Commissioner—Senator Brandis interjecting—

Senator Brandis interjecting—

Senator WONG: Yet again I will take the interjection from the Attorney-General, because with every interjection this man demonstrates why he is unfit to hold this office. Yet again he is engaging in a personal attack on Professor Saul and on Brian Burdekin, the first President of the Human Rights Commission of this nation. In addition Graeme Innes, the former Disability Discrimination Commissioner, has been critical of the actions of the Attorney-General. The rolcall of shame, the rolcall of those who are critical of this government and this Attorney-General, demonstrates why the Senate ought censure the Attorney-General.

The reaction of the Abbott government to the commission's report, The forgotten children, gives us an insight into the psyche of this dysfunctional government. It is a psyche permeated by bullying and by cowardice. From the bully-in-chief in the Prime Minister's office, to his lieutenant Senator Brandis and all the way through to the Senate's own Crabbe and Goyle, Senator Macdonald and Senator O'Sullivan, we see bullying behaviour and, frankly, cowardly behaviour.

The opening sentence of the Prime Minister's Statement of Ministerial Standards says: Ministers and Parliamentary Secretaries are entrusted with the conduct of public business and must act in a manner that is consistent with the highest standards of integrity and propriety. It goes on to say: … it is vital that Ministers and Parliamentary Secretaries conduct themselves in a manner that will ensure public confidence in them and in the government.

In his treatment of the Human Rights Commission, the Attorney-General has not conducted himself in a manner that reflects high standards of integrity and propriety.
This Attorney-General has failed to defend the commission from political attacks, he has attacked the independence of the commission, he has tried to force the president into resigning, he has sought to procure that resignation by offering an alternative position and he has placed the secretary of his department in an invidious position. He has not only displayed a lack of integrity; he has behaved in a cowardly fashion. Most importantly, he has eroded public confidence in his approach to the position of Attorney-General and he has eroded public confidence in the government's approach to human rights—and that is why he should be censured.

I will comment briefly on the role of the Attorney-General. One should recall that the Attorney-General is not only a senior minister in the government; he is also the first law officer of the Commonwealth and has special responsibilities. He has a broad responsibility for the legal system and he has a special public interest role with the responsibility of promoting the interests of the community at large—as distinct from the narrow political interests of the government. The role also includes being the public defender of the courts and the judiciary. It should also include defending statutory agencies such as the Australian Human Rights Commission.

This Attorney runs this sophisticated legal argument—he thinks it is a very clever legal argument—that, because the commission is not technically a court, his obligation to defend its independence is not the same. I want people to pause for a moment and consider the ramifications of that. What he is saying is that those statutory bodies that this parliament creates to act as a fetter on executive power—to act as a watchdog over executive power and to comment independently on executive power—are open to political attack. I ask those senators listening to consider this. Under this argument, this Attorney-General would condone a public attack on ASIC, a public attack on the ACCC, a public attack on the Auditor-General, a public attack by the government on the Inspector-General of Intelligence and Security. Understand what this Attorney-General is saying. He is saying, 'Unless you are actually a court—even if you are a statutory body, an independent body—you are open to attack from and fair game for the bullies in the coalition.' That is not the Australia I believe in.

I believe that statutory agencies ought to be able to report without fear or favour. And there are things that the Human Rights Commission has said which I may not agree that, but I would defend their right to say it.

**Senator Brandis:** What was warranted about that?

**Senator Wong:** Unlike you: you want to defend the rights of the bigots! Well, I defend their right to provide reports to this parliament and to stand up for what they consider is their remit—and so does every senator on this side.

I believe there are senators on that side who are deeply troubled—deeply troubled—by the actions of this Attorney-General. They understand that this commission carries out important functions: the promotion of human rights and Australia's observance of international human rights convention and law, as well as resolving complaints of discrimination and conducting inquiries into human rights issues. I say, and the Labor senators say, that the role of the Attorney-General should be to defend such an agency from unwarranted and politically motivated attacks.
Again, I reprise that the attacks on the president of the commission have so alarmed the legal profession that the Bar Association and the Law Council jointly issued a statement on 14 February this year, including stating that in relation to Professor Triggs:

Personal criticism directed at her or at any judicial or quasi-judicial officer fulfilling the duties of public office as required by law is an attack upon the independence and integrity of the Commission and undermines confidence in our system of justice and human rights protection.

The Law Council and the Australian Bar Association state that this:

… undermines confidence in our system of justice and human rights protection.

Senator Brandis failed to defend the commission when it came under attack from members of his own government and from the media.

Senator Brandis: I defended the commission; I criticised the president—

Senator WONG: Well, you can run that—he has come up with another legal argument! That is the problem with Senator Brandis: he understands words but he does not understand values. He does not understand principles. He is very good at the legalese, but he does not understand principle. The principles he is supposed to stand for, one sees him jettison them constantly when it suits his government or the political objectives of the chief bully, the Prime Minister.

I want to turn now to the pressure on the president of the Human Rights Commission to resign, because that is a disgraceful and a disturbing allegation. We know from evidence—

Honourable senators interjecting—

The PRESIDENT: Order on both sides!

Senator WONG: We know from evidence—and some of this is not contested—before the Senate that the Attorney-General asked the secretary of his department to advise Professor Triggs that he had lost all confidence in her.

Senator Ian Macdonald: She asked him!

The PRESIDENT: On my right!

Senator WONG: We also know from evidence that he asked his departmental secretary to offer this independent statutory officer—

Senator Ian Macdonald: She asked—

The PRESIDENT: Senator Macdonald!

Senator Jacinta Collins: Here he goes again!

Opposition senators interjecting—

The PRESIDENT: On my left!

Senator CAMERON: Bjelke's boy is up at his—

Senator O'Sullivan: Mr President—

The PRESIDENT: Senator Cameron! Just a moment Senator O'Sullivan.

Senator BILYK: He's not in his seat! You have to go back so you're not facing your media!

The PRESIDENT: Senator Bilyk!

Senator O'SULLIVAN: Do I have time to go to my seat, Mr President?
Opposition senators interjecting—

The PRESIDENT: We will continue with Senator Wong. It is up to you, Senator O'Sullivan, if you wish to take a point of order from your seat.

Senator WONG: This alternative position was not just a vague suggestion that an alternative job might be found. That, of itself, would be bad enough. This was the offer of a specific position that was so sensitive and so important that the attorney could not reveal publicly what it is.

Senator O'SULLIVAN: Your statement is false!

Senator WONG: Professor Triggs, gave evidence to the Senate estimates last week—

Senator O'SULLIVAN: Your statement is false.

The PRESIDENT: Order! Senator O'Sullivan: it is illegal—well, it should be illegal—you cannot interject in any event during the debate, but it is highly disorderly to do it not even from your own seat. I just remind all senators of that.

Opposition senators interjecting—

The PRESIDENT: Order on my left!

Senator WONG: Professor Triggs told estimates last week that there was no doubt in her mind that the pressure to resign and the offer of an alternative position were connected.

That is what Professor Triggs told this Senate. This is the most underhanded piece of business imaginable—a heavy-handed attempt to pressure a statutory officer into quitting by unleashing the bullies then claiming to have no confidence in her, while simultaneously offering an alternative position. That is what this Attorney-General and this government have done.

It is quite clear we have seen a hysterical and partisan campaign from the government. We have seen the same senators who sought to interrupt me again on this occasion running hard against Professor Triggs. We then saw the Prime Minister join in. Then the Attorney, who should be defending the commission, very conspicuously had nothing to say. Then came Senator Brandis's big play: he made Professor Triggs an offer she could not refuse, he thought. Too bad about the damage to the independence of the commission; too bad about the damage to Australia's reputation on human rights—and all because Senator Brandis wanted to deliver a scalp. The same people—

Senator Ian Macdonald: You have to read this, Penny?

Senator WONG: Let me quote from an article by Professor Ben Saul—a barrister and professor of international law at the University of Sydney.

The President of the Human Rights Commission holds the next closest thing to a judicial office, being both tenured and exercising quasi-judicial powers. Brandis's actions—

Government senators interjecting—

Senator WONG: Isn't it interesting how they always have to engage in a personal attack on anybody who is criticising them! It is fascinating, isn't it? I think in Rugby they might call this playing the man, not the ball—right? The quote continues:

Senator Brandis's actions should be viewed in this light—as if he were leaning on a judge to resign because he didn't like the court's decision.
Senator Brandis: Absolute rubbish.

Senator WONG: These are not my words, these are the words of a professor of international law:

Such an attack on the rule of law is conduct grossly unbefitting of an Attorney-General and a barrister. Thank goodness Professor Triggs had the courage and integrity to stand her ground in the face of this extraordinary conduct by this bullying and cowardly Attorney-General, who ought to be defending her.

A government senator interjecting—

Senator WONG: We know you are not defending her. We know you have never defended her. You have never defended her; you have never done the right thing. When was the last time you did the right thing, Senator Brandis?

Senator Ian Macdonald: I rise on a point of order. Senator Wong has been here long enough to know that she does not address people directly. She must do it through the chair. I ask you to bring her to order.

The PRESIDENT: Order! I remind all senators that they must address their remarks to the chair, and that interjections are disorderly.

Senator WONG: Fortunately, Professor Triggs had the courage and integrity to stand her ground in the face of this extraordinary conduct by the Attorney-General. She told Senate estimates last week:

I rejected it out of hand. I thought it was a disgraceful proposal.

Mr President, fellow senators, it was a disgraceful proposal—a disgraceful, deceitful proposal from a disgraced and discredited Attorney-General. I would like to read—I probably do not have time to read it—a letter that I received from a resident of Wollstonecraft, who wrote:

The Coalition's aggressive and misogynist, unnecessary and malicious attacks need to be curtailed.

The resident wrote:

I want a leader of Australia who is respectful to others, no matter if they disagree with them. And:

I urge you to ask Parliament to provide a leader for all Australians and not a leader who belittles, ridicules and repudiates others.

This is the view from mainstream Australia. But I would say—and I address my remarks to this chamber and particularly the crossbench—there is a lot of partisan debate in this chamber. There is a lot of rancour at times, a lot of hard debate and a lot of toing and froing. But we have an important job to do today and the—

Senator IAN MACDONALD: It's a job you're doing!

Senator Brandis interjecting—

Senator Jacinta Collins interjecting—

The PRESIDENT: Order, on my right and my left!

Senator WONG: We have an important job to do today, and that is to stand up for our system of democracy, which recognises the importance of independent institutions.
It is our job today to say that we believe that independent statutory authorities ought be able to do their jobs without fear or favour. It is our job today to stand up for those who are not able to stand up in this place and argue their cases. It is our job to stand up to those who do not have the pulpit of parliament to issue bullying statements, critical statements and endless attacks on the President of the Human Rights Commission, because that is what we have seen from this government. Whether in the House of Representatives, where we have seen the Prime Minister—(Time expired)

Senator ABETZ (Tasmania—Leader of the Government in the Senate, Minister Assisting the Prime Minister for the Public Service and Minister for Employment) (10:26): When Senator Wong reaches for principles to try to defend this motion you know that she is absolutely scrabbling for ground. It was this person who came into this place, remember, telling us that the carbon price and the carbon challenge was the greatest moral challenge of our time, and then just threw it away like a used tissue. The principle all of a sudden became inconsequential. Of course, loyalty to leader is one of her great strengths. A strong principle in Senator Wong is loyalty to leader—until she decides otherwise; until she thinks it might be beneficial for her to become Leader in the Senate.

But let us have a look at this motion bit by bit. First of all, my good friend and colleague the Attorney-General is being criticised for failing to defend the President of the Australian Human Rights Commission from malicious attacks. And what does she base that argument on? She is basing it on the fact that 'statutory agencies should be able to act without fear or favour)—without having their reputations reduced. I ask Senator Wong and the Australian Labor Party, not rhetorically: does that apply to the Australian Public Service Commissioner? That there is no answer from the Australian Labor Party tells you everything you need to know. Labor will besmirch the Australian Public Service Commissioner in a press release from the shadow labour minister, but that is okay!

When people come into this place wanting to move censure motions they should do so with clean hands, and we see the hypocrisy of the Australian Labor Party. Make a criticism of the
Human Rights Commission and there is outrage. Make a criticism of the Public Service Commissioner and it is, ‘Okay; nothing to see here, we will just move along.’ Make a criticism of the Fair Work Building and Construction Director and it is, ‘Nothing to see here; we’ll just keep moving along.’ The hypocrisy is palpable. Senator Wong stands condemned for trying to make this assertion that statutory agencies cannot be criticised.

Let us be very clear what the point is here. Many years ago the Australian High Court determined that this country does have this wonderful thing called 'free speech'. Even if you are a statutory authority, such as the Industrial Relations Commission, an editor of a newspaper is entitled to criticise you. That was established in a great case involving the editor of The Mercury many years ago. The then editor sought to criticise a decision of the Industrial Court and the Industrial Court took him all the way to the High Court, but the High Court quite rightly said that it was right and proper for that good editor of The Mercury—they had them in those days; in fairness, I am sure they still do nowadays—to be critical. If the High Court is of the view that people can be critical of independent statutory authorities, why is it that a parliamentarian should not be able to? In fairness, I have never run the ridiculous argument of Senator Wong in relation to independent statutory authorities. I believe they have to do their duty, they have to be seen as bipartisan—

Senator O'Neill interjecting—

Senator ABETZ: Thank you very much, Senator O'Neill. I invite you to watch a video of the employment estimates so ably chaired by Senator McKenzie. If you do, you will see some of the worst bullying in your life—by Senator Doug Cameron. He spent half an hour in the previous Senate estimates attacking an independent statutory authority for seeking to defend a female public servant from being abused through a loudhailer—with language so abusive that I hope we would all condemn it. If ever you wanted an example of misogyny, it was Mr Collier shouting through a loudhailer at a female public servant who was acting for and on behalf of an independent statutory authority. What does Mr Shorten do in response to that? He wheels in his frontbencher Senator Doug Cameron to run defence for this terrible individual who has now voluntarily given up his right-of-entry permit. But Senator Cameron tried to fight it all the way.

Without saying that Senator Brandis has failed to defend the President of the Human Rights Commission, I simply remind the Labor Party—

Senator Wong interjecting—

Senator ABETZ: Is it not amazing? When coalition senators interject, it is the most outrageous thing. When Senator Wong does it, it is Labor, so it is okay! It is like the attacks on independent statutory authorities—the hypocrisy is there for all to see and for all to read in the Senate Hansard. The second paragraph of this motion asserts that the Attorney-General sought to obtain the resignation of Professor Triggs. That is simply false. There is not a shred of evidence that supports that assertion. It is false, false, false.

Senator Wong: On a point of order, Mr Acting Deputy President: that is a misleading statement. Professor Triggs gave evidence precisely to that effect.

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

Senator ABETZ: We have an interesting situation. Let us be very clear: if Senator Wong wants to believe some sort of blown-up version of the evidence Professor Triggs gave to the
Senate committee the other day, she would then, by implication, have to reject completely the evidence of the Secretary of the Attorney-General's Department. So, by allegedly defending the President of the Human Rights Commission, she is besmirching the reputation and the evidence of the Secretary of the Attorney-General's Department. We can stand in this place and besmirch his character, allegedly, but, if anybody questions that which the Human Rights Commission has engaged in in recent times, that is completely different, of course, from the Labor Party's two-pronged approach, which would be better described as the forked-tongue approach.

The Attorney-General is also condemned for refusing to fully account for his conduct when appearing before a committee of the Senate. Nothing could be further from the truth. He was there hour after hour after hour, answering questions that were put to him. The fact that the Labor Party could not make headway in view of the overwhelming evidence in support of the Attorney-General does not mean that he refused to fully answer. What it means is that the Australian Labor Party had nothing to put into their sails.

Then the Attorney is accused of undermining Australia's commitment to upholding human rights. Can I tell you: one of the fundamentals of human rights is to have a free media in this country. Which was the political party that tried to put a restraint on the media in this country? Senator Conroy is absent, so, just in case people needed reminding, it was none other than Senator Conroy. What did that build on? It was built on a former Labor government that tried to restrict political advertising during election campaigns—a Senator Nick Bolkus special, if you recall, Senator Macdonald. So this is a political party that restrains and seeks to restrict freedom of speech in this country and then, in the next breath, just discards that to say, 'Nothing's happening; we are the champions of human rights.'

Then we go to the last clause: that Senator Brandis is allegedly unfit to hold the office of Attorney-General. What a joke—a highly qualified barrister and QC, very capable and learned in the law. Senator Wong accuses the Attorney-General of a personal attack. What is the language that Senator Wong used? That he was a bully; that he was a coward; that he was a disgrace; that he was discredited—but not a personal attack to be seen here! If Senator Wong does a personal attack, it is high and mighty! It is undoubtedly absolutely overflowing in principle! But if there are some questions about the good professor's conduct and the way the Human Rights Commission has been operated then allegedly this is a matter of bullying and cowardly behaviour.

So let's just go through some of these issues. First of all, why the inquiry into children in detention? Let's just have a look at the facts. When the Howard government left office, how many children were in detention? Why is it that nobody on the Labor-Greens side would answer that question? Because they know the answer is zero. When the Labor-Green government got defeated in September 2013, how many children were in detention? Once again Labor and the Greens do not know the answer, but the coalition does: there were in fact 1,743 children in detention. Today, how many children are in detention? Once again the Labor Party and the Greens will not answer, because they do know the answer. We on this side do: 261 remaining, and the number is heading south by the day. What better human right could there be than actually see no child going into detention and then the legacy caseload, courtesy of the failed Labor-Green policies, being removed from detention, which is exactly what we are doing? So, having seen the number of children in detention grow from zero up to
about 2,000, the Human Rights Commission was never motivated to undertake a study of the consequences of detention on children.

**Senator O'Neill:** That's not true—they reported all the way through.

**Senator ABETZ:** Sorry—they were motivated! You are right, Senator O'Neill! I understand they were motivated and had discussions with Labor ministers, and it was decided it would not be a good idea because it might be a little bit controversial. If a human rights commission wants the reputation it is quite entitled to have, it needs to behave in a manner that is beyond question, that is seen as being impartial. That is where there have been some concerns expressed in the community.

On the issue of children in detention, I ask: with Labor's failed policies, in addition to the nearly 2,000 children being put into detention, how many children lost their lives at sea? What was the Human Rights Commission's response? 'Nothing to see here. Just move along.' Where do the Human Rights Commission see injustices? They claimed, for example, that there are armed guards patrolling the detention centre on Christmas Island. How could you make up such an allegation, an allegation that was found to be completely and utterly false?

**Senator Jacinta Collins:** It was in evidence before it was clarified.

**Senator ABETZ:** If it is false, it is not evidence; it is a lie, it is untrue and can never be sustained. For the Human Rights Commission to have embraced that and to have then talked about it in the media is a matter of great concern. For those concerned about human rights, and especially at a time when Australia quite rightly has, as its Australian of the Year, a champion to fight domestic violence, a wonderful woman, think of this as an offering from the Human Rights Commission. About John Basikbasik, who entered the country illegally in 1985, later murdered his pregnant partner and was involved in a revolving door of violent incidents, the Human Rights Commission said, 'He should be removed from detention and be paid $350,000 of Australian taxpayers' money'. There you have a wonderful championing of human rights—apart, perhaps, from those of the dead partner and those of all the victims of the violence. Is it any wonder that there are a number of people and commentators questioning decision-making in the Human Rights Commission? I, for one, am quite frankly amazed that the Human Rights Commission could discard a female partner who was killed in rage when expecting a child—that they should recommend he be released from detention after having come into this country illegally.

Then there was another one. The Human Rights Commission recommended that a serial criminal be paid $300,000 of taxpayers' money in compensation for being detained while engaging in legal action to prevent deportation. Do you know what the Federal Court said about that action to prevent deportation? The Federal Court is somewhat higher than the Human Rights Commission. With respect to Ben Saul and Senator Wong's other Labor mates, the Federal Court is actually a judicial body. Do you know what the Federal Court said about this criminal's legal actions? They said they were 'frivolous, vexatious and embarrassing.' Here you have a fully-fledged court of the Commonwealth of Australia saying that the action by this person was 'frivolous, vexatious and embarrassing'—while on the other hand you have the Human Rights Commission, under Professor Triggs, saying, 'This poor man; he deserves $300,000 of Australian taxpayers' money.'
These are the sorts of decisions that have been coming out of the Australian Human Rights Commission in recent times. On top of that, you have had the ludicrous false allegations of armed guards at Christmas Island and we have this ludicrous time, now, of having to lock the children in detention. And so the list goes on.

This motion has all the hallmarks of the Australian Labor Party. It is not based on principle; it is based on hypocrisy and duplicity. It is seeking to champion the cause of certain decisions which fly in the face of people—not that one email or letter that Senator Wong got that she claims represents mainstream Australia. I would invite Senator Wong, the Australian Labor Party, the Greens and the crossbenchers to go out onto any street corner and ask what people think of the decision to give John Basikbasik $350,000 for being in detention whilst having to face these very serious charges.

I have no doubt where the Australian people stand in relation to these matters. They want genuine human rights. They want people to be protected. Might I say, the Attorney-General has done an absolutely superb job in doing exactly that—being a great steward of the Australian taxpayer dollar and human rights.

**The ACTING DEPUTY PRESIDENT (Senator Smith):** Before calling the next senator I remind the Senate that the Senate standing orders provide that senators will be heard in silence.

**Senator MILNE** (Tasmania—Leader of the Australian Greens) (10:46): I rise today to support the censure motion which cites the fact that the current Attorney-General is unfit to hold the office. It is absolutely clear that the rule of law is fundamental in a democracy. If we do not uphold the rule of law then we are descending into the kind of mess we have seen in other countries around the world. It is fundamental. What is extraordinary here is that we have a conservative government—which cloaks itself in the flag; which cloaks itself in law and order, in order to secure support in the community—which is actually not conservative. Members of this government are extremists in the way they attack the institutions in our democracy.

This is a really important point, and the Attorney-General is at the heart of this. It is his job as Attorney-General to defend the institutions of justice in our democracy. It is his job to defend the rule of law and uphold the rule of law and the independence of statutory authorities. Instead, we have seen the Attorney-General complicit in the Prime Minister's attack on the independence of the Human Rights Commission and, clearly, an attempt to destroy its President. That is extremely serious in a democracy. As the legal fraternity, in the letter of support that they released in January, said:

Independent public office holders are an important part of modern democratic societies. Their task is to ensure accountability for abuses of power by government. Their capacity to perform this role depends on their independence and ability to act impartially.

That is precisely what we have had with the Human Rights Commission. That is why the government does not like it. In fact, they are the independent umpire of the state. It is essential here that we do support the Human Rights Commission, as an independent statutory authority, upholding the rule of law. It is particularly important in the case of Australia because we are unique in our treatment of asylum seeker children. No other country mandates the closed and indefinite detention of children when they arrived on its shores. Unlike all other common-law
countries, Australia has no constitutional or legislative bill of rights to enable our courts to protect children.

This is a direct quote from the president, Professor Gillian Triggs: 

The evidence documented in this Report demonstrates unequivocally that prolonged detention of children leads to serious negative impacts on their mental and emotional health and development. This is supported by robust academic literature.

It is also clear that the laws, policies and practices of Labor and Coalition Governments are in serious breach of the rights guaranteed by the Convention on the Rights of the Child and the International Covenant on Civil and Political Rights. The United Nations High Commissioner for Human Rights also suggests in his opening address to the Human Rights Council that Australia’s policy of offshore processing and boat turn backs is ‘leading to a chain of human rights violations …’

It is that quote from Professor Triggs which tells you why Prime Minister Abbott and Attorney-General Brandis are determined to try to destroy the credibility of the President of the Human Rights Commission: because it is the only institution which is calling out both the former Labor government and this government on their treatment of children as being contrary to the law. That is the job of the Human Rights Commission—to do just that. In fact, the Australian Human Rights Commission Act 1986 gave it the right to:

For the purpose of the performance of its functions … hold an inquiry in such manner as it thinks fit …

That is exactly what it did in relation to the cruel treatment of children, and it called it out in no uncertain terms. That is why the Attorney-General has set out to destroy the credibility of Professor Triggs and, in fact, the institution itself.

But it did not just start with the investigation into the detention of children. This government's attack on the Human Rights Commission started virtually the day after it was elected. If you go through the period of time from the election in 2013 until now, you find endless attacks on the Human Rights Commission. You find it there in the denial of access to Nauru and Manus Island detention facilities. You see it when Professor Triggs stood up on section 18C of the Racial Discrimination Act and was vilified, of course, by the Attorney-General as well for the stand—now it seems the Prime Minister has reversed his position on 18C and now wants to strengthen that particular part of the act. You also saw it with the refusal to reappoint the Disability Discrimination Commissioner. We have seen it with the funding cuts to the commission. And, of course, we have seen it in the children in detention inquiry.

We also saw it in relation to many other things, including a statement from the outgoing Disability Discrimination Commissioner where he stood up in the Press Club in July 2014. The then commissioner, Graeme Innes, criticised the government's attack on the Human Rights Commission and on the commission's focus on antidiscrimination legislation to the detriment of promoting fundamental freedoms. He stated that the Human Rights Commission only administers antidiscrimination legislation and that a charter of rights should be passed if the government wants those rights to be examined, and he went on to criticise the government's decision to appoint Tim Wilson when it was intending to cut the Human Right's Commission budget, forcing them to accommodate that salary within their existing allocations.

Of course, the president not only criticised the government on immigration but went on to the legacy case load bill. There is a whole lot. Day after day, week after week, they gave a
ruling on indefinite detention of mentally ill Aboriginal men in the Northern Territory. Week after week, the commission were doing their work: upholding human rights, putting a light onto where the government was failing to uphold the law.

As a result, the fact is that the government decided to do in the Human Rights Commission. Many people will have missed it because they were on holidays, but in January this year there was a report in Rupert Murdoch's pamphlet *The Australian* that stated that coalition MPs were attempting to launch an inquiry into the timing of the Human Rights Commission inquiry into children in detention and investigate the president for political bias, while criticising her on many other issues. So clearly there had been a decision by the government to launch a preemptive attack on the commission. Backbenchers had already started to talk to the Attorney-General's office about launching such an attack. Why? Because he had the report on the detention of children in November. This was a concerted campaign across the summer that we saw ratcheted up in January.

We have just heard Senator Abetz on the Basisbasik affair. Once again he completely misrepresented the Human Rights Commission. This misrepresentation had previously provoked a whole lot of lawyers—25 leading legal experts—to come out and state that the government's attack on the Human Rights Commission over that decision was disgraceful. All that the commission found was that the government had not established that continued detention after completion of a sentence was necessary—and Professor Triggs herself made it clear that the government had the right to reject her findings if they were wrong in law.

I want to emphasise that point. Professor Triggs gave the report on Basikbasik to the Attorney-General in June last year. He had six months to reject her findings on the basis that they were wrong in law. He did not. He said nothing, because in law she is correct. Instead of finding any legal basis for rejecting the Commission's finding, he waited until the period in which he could actually do something about it had run out—and then in January he launched these public attacks and smear campaigns through *The Australian*. That is disgraceful. If, Senator Abetz, the Attorney-General had a reason in law to reject the Commission's, he had had six months to do something about it, but he did not—because Professor Triggs was right in law. She was doing her job as chair of the Human Rights Commission and she is a highly regarded legal expert.

That brings me back to the point I am making about the rule of law in Australia—and the Attorney-General's failure to uphold that rule of law. It is a real concern. In a very interesting assessment of our current Prime Minister's behaviour, 'Tony Abbott running from the law', David Marr said:

> But when the law stands between him and a quick win, he shows contempt for its values, its customs and the part they play in national life.

And the Attorney-General goes along with it. That is absolutely the case. They made a decision that the Human Rights Commission, by upholding the law, was undermining the government—because it was exposing an extremist government acting the wrong way in the face of the law. Instead of reflecting on the Human Rights Commission's findings and upholding the law, they made a decision to go after the Human Rights Commission and, in particular, its president.

They know as well as we do that the only bases on which they can remove the President of the Human Rights Commission are misbehaviour, bankruptcy, failure to disclose interests, or
mental or physical incapacity—and they had none of those. There was no way they could get rid of the person they wanted to get rid of. What is her crime? Her crime is that she stood up for the law, the rights of the disadvantaged and the rights of children in detention. People around Australia get it. They get that children were being badly treated in detention under both Labor and Liberal governments—and they now see a disgraceful effort by the Prime Minister and the Attorney-General to do in Professor Triggs. These matters have now been referred to the Federal Police, as indeed they should have been—because an offer of an alternative position, on the basis of a promise or an undertaking to resign, can only be seen as an inducement. That is why it is now with the Federal Police to investigate.

But we as a parliament have to consider what is to be done. It goes to this fundamental issue: do we want, as a country, to allow the government to get away with undermining the rule of law? If you have not got the rule of law, then you sink into a quagmire, and that is my concern here—that the Attorney-General has facilitated and is facilitating the Prime Minister in abusing the rule of law because it suits them to do so, because Professor Triggs and the Human Rights Commission, without fear or favour, will do as they are required to do under the law, and that is look at issues brought before them, look at the framework and the legal process in place and act accordingly. That is why we should be supporting Professor Triggs and we should be doing everything we can in this parliament to seek the upholding of the law.

I want to just come back to the fact—I think it should be noted—that Senator Abetz did not defend the Attorney-General until the last four seconds of his speech. The government know, as this parliament knows, as the Australian community knows, that this is an unwarranted witch-hunt against Professor Triggs and the Human Rights Commission. There is no other way that you can see it—the bullying, the abuse. It was outrageous in January: day after day, week after week, in The Australian out came these reports—to the point where I asked for an assessment of just how many reports had come out in The Australian over January, leading up to the release of the report.

There was a strategic decision made by the government to go after Professor Triggs, starting with the attack on 8 January by the Prime Minister. That is why I link this to the Prime Minister. It is not just Senator Brandis; it goes right back to the Prime Minister’s office. On 8 January, Prime Minister Abbott questioned the president’s judgement on John Basikbasik. He went on and on subsequent to that, and that led into the articles saying that coalition MPs are attempting to launch an inquiry into the children in detention report and investigate Professor Triggs for political bias—and so it went on. So the Prime Minister started it on 8 January, knowing this report had to come out, deciding then that they would bring it out at the last possible moment they could in terms of the time frame and work up, day after day, their attacks.

One of the most cowardly and disgraceful things, from my point of view, is the fact that the Attorney-General, if he had a problem with the Basikbasik judgement of the commission, had his statutory six months to do something about it, and he did not. Why didn’t he? Why didn’t the Prime Minister require him to do something about it if they thought there was something wrong with the judgement in law? And there is not. That is what is so pathetic. That is the contempt that they show for the law. They would prefer to go through the shock jocks and the Murdoch pamphlet to get out there and build a case, rather than go back to the fundamentals of the law.
Legal academics came out and said:

If the government disagrees with the commission, providing a reasoned explanation of why it considers the commission's reasoning or conclusions to be wrong as a matter of law would be the most constructive way of contributing to the discussion of the important and sensitive issues involved in this case.

In our view, the President of the Australian Human Rights Commission has carried out her duties under the Act with independence, impartiality and professionalism.

That was the judgement of leading academics in relation to the investigation into the Basikbasik case. I want to also correct the record: at no stage did Professor Triggs say that John Basikbasik should just be released into the community at large. That is important. It is a complete lie and misrepresentation that the government goes on with.

I know that there is great disquiet in the Liberal Party about what the Prime Minister has done and what the Attorney-General has done. That is why people are concerned. I know that there are people who joined the Liberal Party because they thought they were conservatives and they actually believed in the rule of law and upholding the rule of law. They thought they actually believed in human rights. Instead of that, those people have landed themselves in a party of extremists who are prepared to ditch the law when the law stands between the government and a quick political win or anything else, and they will show absolute contempt for the law.

That is why I and the Greens are supporting the censure motion against the Attorney-General. We do not believe he is fit to hold the office of Attorney-General. Not only that; his behaviour and that of his colleagues has demeaned the Senate and the parliament. The inquisition that took place last week was a disgrace—the failure of the chair to properly chair the session, to protect the witnesses. But that is a secondary matter to the fact that we have a government prepared to undermine the rule of law. It is time we had an Attorney-General who will do as an Attorney-General is supposed to do, and that is uphold public confidence in the law and legal institutions and stand by those legal institutions. It is a view that has been expressed, I know, within the Liberal Party. It was reported that Craig Laundy MP, for example, said, 'Why didn't you focus on what happened to the children in detention rather than go after the commissioner, whose job it is to interrupt the framework of the law?' The Attorney-General has shown he is not fit to hold the position he currently holds in the government, and the lack of confidence in him extends well into the community.

Senator MOORE (Queensland) (11:06): We know in this place that censure motions are rare. They are rare because only at very special times do people feel as though responsible ministers have lost the faith of the people in this parliament. In terms of the process, it is always difficult. I know that Senator Abetz in his contribution said that, if you went out into the wider area, you would find people who would actually be supporting what is happening with concern about the role of human rights, and particularly the role of the Human Rights Commissioner. He also said that you would find that people would be supporting the government in their process. It is always difficult to speak on behalf of the Australian people, but what I can say is that, over the last couple of weeks, there has been an amazing response from people across this country through techniques that I do not always watch—that is, letters to the editor, talkback radio and comments to parliamentarians, where people have been expressing concern about what they have been perceiving as an attack—a personal attack—on
an office bearer rather than focusing on the issues about which there may well be concerns from the government.

This is not the first time that the work of the Human Rights Commission and individual commissioners, and indeed presidents, has—

**Senator Ian Macdonald:** Mr Acting Deputy President, I hate to interrupt Senator Moore, but can I raise a point of order. We now have had three attackers on this motion and one defender, if I can use those words. How can this be fair? We are talking about the Human Rights Commission and fairness.

**The ACTING DEPUTY PRESIDENT (Senator Smith):** Excuse me, Senator Macdonald. What is your point of order?

**Senator Ian Macdonald:** I would have thought that it should have been one from this side speaking now rather than Senator Moore.

**The ACTING DEPUTY PRESIDENT:** There is no point of order, Senator Macdonald.

**Senator Ian Macdonald:** Mr Acting Deputy President, can you just explain the ruling, please.

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

**Senator MOORE:** In terms of the process, basically what we have seen is questioning—public questioning—about the way that this government and, in particular, the responsible minister—

*Honourable senators interjecting—*

**The ACTING DEPUTY PRESIDENT:** Senator Moore has the call.

**Senator Jacinta Collins:** Could you remind Senator Macdonald, please—

**The ACTING DEPUTY PRESIDENT:** Excuse me. Senators making a point of order will rise in their seat.

**Senator MOORE:** It shows the interest people have in this discussion. But, in terms of the process, again I say that what we are talking about today in the Senate and what was discussed in other ways about the role of the government—in particular the Prime Minister—last week in the House is not something that has not been questioned and discussed in the wider community. I have been impressed by the way that people across this country have been expressing their concerns about what they perceive as not a questioning of a report, not a questioning about what has happened in the Human Rights Commission, but rather as quite a personal and strategic attack on the President of the Human Rights Commission, Professor Triggs, and also as raising questions about what is in fact the role and the job of the Human Rights Commission. This is something for which the Attorney-General is responsible as the first officer of the law in this country.

However, it is important to know that the Australian Human Rights Commission Act provides that the commission functions 'to inquire into any act or practice that may be inconsistent with or contrary to any human right', and it goes on to talk about the definition of human rights. But the process involves the Human Rights Commission as an independent agency, and commissioners working in that agency have the right—in fact, the responsibility—to provide an investigative report to government with recommendations. That process, as I said earlier, before one of Senator Macdonald's interjections, is something that
has been in place for many years, many parliaments and many attorneys-general, and I know that through that process there have been issues with which people do not agree and have said that they do not agree. They have said in debates in this place that there are recommendations and processes that have taken place with which individuals or governments have not agreed.

What this particular censure motion says is that we believe that the role of the Attorney-General in this case has gone beyond a questioning and assessment of recommendations and information with which he does not agree. What has happened has been that there has been a direct, strategic attack on the role of Professor Triggs—in fact, impugning her integrity and her professionalism. This is not my position; this is the position that has been put forward by an unprecedented range of professionals and legal groups that have come forward to make statements about how they feel about the attacks and processes that have been in place in this place—in our parliament and in our government, which is attacking. As I think the senator from the Greens just said, it is reflecting more on all of us—on us as a parliament and an organisation in terms of the way we operate. In terms of the censure motion, what we are saying is that we believe that this attack has gone beyond just questioning and has gone into personal attack, and that does not reflect any worth on the Attorney-General or on this place.

What has happened is that the community has responded. I know that Senator Wong quoted from one letter. There were so many places from which Senator Wong could quote. When we look at the media coverage, there have been divergent views, and that is always what happens, but consistently there have been not just legal groups, such as the Australian Bar Association, not just previous commissioners and not just previous prime ministers—indeed, we have had comment from Malcolm Fraser a number of times on this issue. These are people who care about the system, who care about the process and who are knowledgeable and experienced in the way that this interaction between the Human Rights Commission and our parliament and our government should operate, which is to investigate aspects of our human rights. We take that seriously—as you know better than most, Mr Acting Deputy President Smith, from the fact that we now have a Parliamentary Joint Committee on Human Rights in this place. That has come over many years because of the respect and the concerns that we believe parliament should have on issues of human rights.

What has occurred in the public has been, I believe, a response to what they perceive as something which they know is wrong, which is attacking a person—an individual and a professional—rather than looking at the issues themselves. That has been across a range of institutions and groups who have been making that point. I have been surprised. I wish that issues around human rights and issues around equity were more openly discussed in the community. Only in the last week, I have attended a number of functions for a range of things, from lunar new year celebrations in communities to book launches to meeting with people just when they actually know who you are and want to talk about what is happening in parliament, and people were expressing their views on what has happened over the last couple of weeks. Also, I take the point raised by the Greens that this has not been just a recent attack; this has occurred over a period of time, but I am concentrating on this recent period of the release of the children in detention report. People are questioning why, instead of actually looking at the issues, the leaders of the government, including the Prime Minister and the Attorney, have been attacking the messenger rather than the report.
Indeed, we have seen in, I think, an unprecedented way in Senate estimates that the report did not seem to be the issue. In fact, the Chair of the Legal and Constitutional Affairs Legislation Committee put on record that he had not read the report because he 'knew that it was partisan'. In that environment, the process is detracted from, and that is why there is a censure motion before the parliament. We believe the role has been impacted. We believe that the respect for and integrity of role and the way it should operate have been damaged.

It is rare that Senate estimates inquiries receive the amount of media that the legal and constitutional committee received the other day—for all the wrong reasons, instead of concentrating precisely on the issue, which was whether this report reflected human rights concerns. Believe me, as someone who has read that report, I believe it does, and I also believe that it raises questions across a number of governments and a number of parliaments when it comes to the way that the system operates and to the core impacts, as put forward by Professor Triggs, not just at the Senate estimates hearing but in public statements she has been forced to make because of allegations that have been made in the wider community and in the media about the performance of her role. Professor Triggs attempted to table a document numerous times the other day at Senate estimates to describe exactly what the process was.

This is a longstanding human rights issue and Professor Triggs has pointed out how long the commission has been involved in the area of children in detention. This report raises issues that are absolutely central to human rights and puts these issues on the agenda for the government of the day and for the parliament to consider, which is how the system operates. Should there be any difference of opinion about what is in the report, should there be any questions about that report, there are ways to deal with those in our system. In fact, one thing could be to have a special hearing of the human rights committee or something of that nature. But what has happened is an insidious amount of commentary and discussion not just around the report and the Human Rights Commission as an entity and in what it does but, more particularly, around the integrity and the professionalism of the president. There have been public statements about a lack of confidence in that person. We know, because it is set out, that there are only a certain number of circumstances in which a president of the Human Rights Commission can lose their position. None of those have arisen, but in the wider environment there have been questions, comments and statements that have led people who may or may not have intimate knowledge of the Human Rights Commission to feel as though there is something wrong, and Professor Triggs's name has been trawled through the public. That is wrong.

Under normal circumstances, what one would expect—what I would expect—is that the government of the day and the Attorney of the day would defend Professor Triggs and the commission. I would expect them to question things on which they may not be in agreement, and that has happened many times in the past. We have a litany of Parliamentary Library references to where, in the past, there have been differences of opinion between the government of the day and the Human Rights Commission of the day—and that goes on because it is a dynamic process. But, in this case, we believe it has gone a step beyond by personalising the dismay, personalising the distress and personalising the disagreement. It has come down to the government versus Professor Triggs, and that was never the intent of the legislation. It has never been the intent of the process. There should be an independent assessment of human rights issues prepared for the government and then discussion could
occur. I doubt whether there has ever been a time when every recommendation of any human rights report has been accepted. I would love to be corrected on that, but I believe that has never happened. What should happen is a discussion about the issues of human rights concern and then an interaction on that. Never should it degenerate into any personal attack.

What we have now is a range of people in the legal profession with interest in this area who feel that they need to come forward publicly and defend the President of the Human Rights Commission. That is not a circumstance that focuses effectively on human rights issues. We should not be in any kind of personal battle over the integrity or the professionalism of an individual. We should be looking at the clarity of the issues around human rights.

As I have said a number of times, this is not peculiar to people who normally take interest in this area. When you look at the letters to the editor columns in the newspapers, you see that people are coming forward with their concerns about how they feel this debate has occurred. They believe, from what they have seen, what they have heard and what has been reported in the press, that there has not been a defence of the president's role or position. They believe that there has been an attack by the government on the Human Rights Commission president. Anyone who watched the Senate estimates hearing or read the Hansard would accept that there was extraordinary pressure put on the President of the Human Rights Commission and her staff at that hearing.

I do not pretend that Senate estimates is always a cuddly, happy place. I know that there is a dynamic debate, but we should always look at where debate carries on to an extent where there is undue pressure on someone who is there in their professional capacity. Having watched those images of that Senate estimates hearing later, I was actually distressed. In terms of the process—the way it was run and the way it was activated—I was concerned not just at the way the questions went, not just at the responses that were expected and not just in the way Professor Triggs was, I think, actually attacked in that Senate estimates hearing. What I reflected on, though, was how that exercise would be seen by people who do not work in this place; to see the 4½ to five hours of personal questions that went on and also the way that answers were interrupted and the process continued I felt was ineffective and inappropriate.

At no time did the minister at the table move forward to stop the process. At no time did the minister at the table question what was happening, which I thought was very telling in terms of a vignette of the general debate that occurs. I have seen many ministers in Senate estimates over many Senate estimates and there is a time when that can occur. Whether that was a decision that the Attorney-General had to make not, I cannot speak for his position on that day. What I can say is that many people have actually said to me, personally and also through the media columns, that they felt that was a distressing experience. So, again, the process is one of the things that we believe is part of the background as to why this rare occurrence—the censure of a minister in this place—has occurred.

In terms of where we go: many people have asked, 'What are we going to do to respond to what has happened over the last couple of days?' This is not a party position; it is a question for what our parliament is going to do in looking at the role of the Human Rights Commission and also the president of that. What we need to do is to respond to the community and say,
'This is how we believe it should operate, this is what is important and this is how we expect the minister to behave in this process.' That is the background to having a censure motion.

There have been many arguments put forward as to motivation for this and whether it is an attempt to divert from the core issues. I do not know the answers to that. I do not think that anyone knows the answers to that. But what we must retain and what must happen out of any debate that occurs is a respect for the institution, a respect for its absolute independence to do a review of issues and to bring those forward—to look at issues of human rights and bring those forward to the government of the day—and to have the knowledge, if you are working in that system, that when you bring forward issues around human rights to any government that they will consider them effectively, they will respond effectively and they will not actually revert to attacking the messenger rather than the message.

**Senator BRANDIS** (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (11:25): The censure motion comprises five paragraphs, the last two of which are essentially rhetorical and I will not detain the Senate by addressing them. Let me address the three substantive paragraphs of the motion in reverse order.

Paragraph 3 accuses me of refusing to fully account for my conduct when appearing before a committee of the Senate. That is, presumably, an intended reference to the Senate estimates committee hearing last Tuesday. That assertion is entirely incorrect. The Human Rights Commission began its evidence before the Senate Legal and Constitutional Affairs Estimates Committee at 9 am last Tuesday. I was not asked a question until 21 minutes to four. Senator Wong interjecting—

Senator BRANDIS: For five hours and 24 minutes the committee sat and not one Labor senator addressed a single question to me.

I can tell you, Mr Acting Deputy President Smith, that I was very eager to address the issues, but not one question was directed to me. Then, eventually, at 21 minutes to four—I recorded the time so that it would be in the *Hansard*—a question came to me from Senator Wong:

Mr Attorney, can you explain why, if you had lost confidence in Professor Triggs, you asked the Secretary to canvass another role with her?

And I responded to that question at some length over four pages of the *Hansard*.

Senator Wong: It's a pretty good question! If you've lost confidence, why offer her another job?

Senator BRANDIS: Not only did almost six hours—

Senator Cormann: Mr Acting Deputy President, I rise on a point of order. This is a very serious matter that is before the chamber and interjecting is highly disorderly. The leader of the Labor Party in the Senate cannot stop acting in an entirely disorderly fashion, consistently interjecting. The Attorney-General here is providing a very important response to the matters that are before the chamber and I think he should be listened to in silence.

The ACTING DEPUTY PRESIDENT (Senator Smith): Thank you, Senator Cormann—
Senator Wong: Mr Acting Deputy President, I rise on a point of order. I acknowledge—and I will cease to desist—seek to desist! Sorry!

Senator Fifield: That's the problem—you always cease to desist!

Senator Wong: I apologise—a double negative! I would make the point that the courtesy that Senator Cormann is requesting for the attorney was not offered to me, and no-one on that side stood.

The ACTING DEPUTY PRESIDENT: I remind all senators that the standing orders require that senators will be heard in silence.

Senator BRANDIS: So, in response to Senator Wong's question I gave a lengthy and detailed answer, which goes over some four pages of the Hansard record, and I was not asked another question. During the entirety of a day, when the Human Rights Commission was before the Senate estimates committee for almost seven hours, I was asked one question; a question by Senator Wong to which I responded at length and in detail. Not a question from the Australian Greens, not a question from—

Senator Jacinta Collins: Mr Acting Deputy President, I rise on a point of order. The Attorney is misleading the Senate. The chair gave Senator Brandis an opportunity to respond at length well ahead of four o'clock on that day.

The ACTING DEPUTY PRESIDENT: There is no point of order.

Senator Ian Macdonald: I want to speak on the point of order raised by Senator Collins—

The ACTING DEPUTY PRESIDENT: But there was no point of order. I have ruled—

Senator Ian Macdonald: That was a deliberate attempt by Senator Collins to interfere with the Attorney's address, and that should be noted by the chair.

The ACTING DEPUTY PRESIDENT: There is no point of order. Senator Brandis.

Senator BRANDIS: I do not want to belabour this point, because it is far from the most important point, but I just do point out to the chamber, against the assertion that I failed to give a full account, I was asked one question in the entire day about these matters. There was no follow-up question from Senator Wong. There was not a single question directed to me by Senator Collins, who represents the shadow Attorney-General in this chamber. There was not a single question directed to me from the Australian Greens. So how it can be said that I failed to give a full account when I was given the opportunity to do so once and availed myself of it at length is beyond me.

Let me turn, then, to the second paragraph of the motion, which accuses me of seeking to obtain the resignation of Professor Triggs by facilitating the offer of an alternative role that would have required her to relinquish her position as president. It should be remembered in this debate that I have never had a conversation with Professor Triggs about these matters—never to this day. There was one relevant conversation conducted at my request between the secretary of my department, Mr Chris Moraitis PSM, and Professor Triggs. Mr Moraitis's evidence to the Senate estimates committee could not have been clearer. Mr Moraitis said emphatically and unequivocally that he did not ask for Professor Triggs's resignation. So the attack on me is in fact, although the opposition seeks to avoid the consequences of their
conduct, an attack on Mr Moraitis, who commands my entire confidence and every word of whose evidence to the Senate estimates committee last Tuesday I believe to be true.

Mr Moraitis is an extremely distinguished public servant. He is, among other things, a former High Commissioner to New Guinea. He has served in senior roles in the Department of Foreign Affairs and trade throughout his career. And, although the opposition seek to avoid the consequences of what they are saying here today, this cannot be other than, by attacking me, attacking Mr Moraitis because they dispute his evidence. Mr Moraitis’s evidence was that he did not seek Professor Triggs’s resignation, and I stand by him. He has my entire confidence. I might add that Mr Moraitis was equally emphatic that no inducement was offered to Professor Triggs, and Professor Triggs did not allege that an inducement had been offered to her.

But let me be blunt: as I said to the committee last Tuesday, I had lost confidence in Professor Gillian Triggs as the President of the Australian Human Rights Commission. I had lost confidence and I have lost confidence, and that fact, I believe, is something that the public are—

Opposition senators interjecting—

The ACTING DEPUTY PRESIDENT: Senators to my left, order!

Senator BRANDIS: And that fact I consider is something that the Australian public are entitled to know. They are also entitled to an explanation as to why. The genesis of that loss of confidence is the November Senate estimates committee, when Professor Triggs, given numerous opportunities to do so, was unable to explain why it was that the holding of the inquiry into children in immigration detention was delayed so that it did not commence before the 2013 election. That could only be seen as protecting the interests of one side of politics. We heard from Professor Triggs in the November estimates that she had already decided in 2012 that there should be such an inquiry, but she decided to delay it until after the 2013 election. As I wrote in The Australian on Friday:

... her decision to delay holding an inquiry into children in immigration detention so that it did not begin until after the 2013 election created the justifiable perception that the interests of one side of politics were being protected.

I can tell you as a matter of plain fact that it did create that perception, because there are numerous colleagues on my side of politics from the most senior levels down who consider that decision to have been political, who consider that decision to have been a decision based upon political partisanship.

We have heard a lot of erroneous commentary—by people who are unfamiliar with the relevant legal principles—that the Human Rights Commission should be treated like a court. Senator Wong, if the Human Rights Commission, as you would say, should be treated like a court then the Human Rights Commission and the President of the Human Rights Commission should apply to themselves the selfsame principles that judges apply to themselves when deciding whether or not to recuse themselves from a case. There is a well-developed body of legal principle about real or apprehended bias, so that if there is a reasonable apprehension of bias a judge should not proceed. I disagree with your premise, but if the Human Rights Commission ought to be treated as being analogous to a court then the principles of apprehended bias should apply to it as well. There can be no doubt at all that
there has been a collapse in confidence in the impartiality of Professor Gillian Triggs on my side of politics.

Senator Wong: From the bullyboys!

Senator BRANDIS: It does not do your argument one iota of good, Senator Wong, to keep yelling out 'bullyboys'. The fact is that by her own decision—what I describe as catastrophic error of judgement—Professor Triggs has lost the confidence of the non-Labor side of politics; and I might say, by the way, of many on the Labor side of politics too, who have spoken to me privately.

Senator Moore, in a more thoughtful contribution than Senator Wong's, made the point that the Human Rights Commission has to be above politics. Of course it does. Of course it must be above politics, which is the very reason why, if its leader puts the commission in a position where it is seen to be taking political sides, then the commission's position and the president's position become untenable. It is for the very reason, Senator Moore, that you articulated that the president must be careful not to make decisions which can reasonably be thought to favour one side of politics over another. Professor Triggs, I am sorry to say, failed that test.

To say that is not to criticise her integrity; it is not to criticise her professionalism, either. It is merely to say that a person charged with the obligation of leading a body which must be like Caesar's wife—a body which must be extremely jealous of its reputation for freedom from political partisanship—will find their position untenable if they steer the commission into a position as a result of decisions they have made which are seen to favour the interests of one side of politics above another. That reputation is lost; that reputation, I am sorry to say—not because of anything I or the Prime Minister have said, but because of what Professor Triggs herself decided—has been lost.

Senator Lines: That's your view!

Senator BRANDIS: It is my view, Senator, and it is the view of those on my side of politics.

Senator Lines interjecting—

The DEPUTY PRESIDENT: Order! Senator Lines.

Senator BRANDIS: I am trying to get through to you, Senator, that the Human Rights Commission can only do its job if there is bipartisan confidence in its non-partisan character.

Senator Singh: Confidence in you was lost a long time ago!

The DEPUTY PRESIDENT: Order! Senator Singh.

Senator BRANDIS: Professor Triggs, I am very sorry to say, has cost the Australian Human Rights Commission that reputation. Lastly, let me come to the first paragraph of the motion: that I failed to defend the President of the Australian Human Rights Commission from malicious attacks. I do not think there have been any malicious attacks on Professor Gillian Triggs. I have made three contributions on the public record on this topic: during an interview, on Sky Agenda on 1 February; in my statement to Senate estimates in response to Senator Wong's single question last Tuesday; and in an opinion article in The Australian last Friday. In every one of those three contributions, as well as in this contribution today, I have been very careful to say—as I repeat—I have a high personal regard for Professor Triggs. I am particularly conscious of and admire her reputation as an eminent international lawyer.
But I think we all know from our own life experience that, just because a person might be a distinguished academic, it does not mean they necessarily have the skills to manage an agency of the executive government.

_Senator Bilyk interjecting—_  
**The DEPUTY PRESIDENT:** Order! Senator Bilyk.

_Senator BRANDIS:_ In this case I say quite unashamedly and candidly, for the reasons I have explained, I and the government have lost confidence in Professor Triggs. The public are entitled to know that; the public are entitled to know the reasons for that. I have given an account of those reasons. To say that is not to attack her character or to be a bullyboy; it is merely to explain the reasons why a particular conclusion has been reached. Were I to do otherwise I would be misleading the parliament, Senator. If I were asked: 'Do you have confidence in Professor Triggs as President of the Human Rights Commission?' and I answered, 'Yes, I do,' that would not be the truth.

The consequence of what the opposition maintains, whether it be shrilly by Senator Wong or in a more measured way by Senator Moore, is that the Australian Human Rights Commission should be beyond scrutiny—that the same principles should apply to it as apply to a court. Senator Wong quoted from Professor Ben Saul, who said words to the effect that the Human Rights Commission and the President of the Human Rights Commission are as close as you can get to a court and it is a shameful thing to criticise them. That was not the principle Ben Saul adopted when, on 19 December 2013, he himself attacked the Human Rights Commissioner, Mr Tim Wilson—the second most senior official of the Human Rights Commission. He described him as somebody who should never have been appointed, and he described his appointment as turning the Human Rights Commission into 'the lapdog of an ideologically obsessed government too determined to protect its privileged mates.' In an article in the Fairfax media by Deborah Snow on 21 December, Professor Saul said of the Human Rights Commissioner:

_He has no serious background in human rights, either by working in a human rights organisation or by having any relevant qualifications in the area._

Nor was it a principle observed by the shadow Attorney-General, Mr Dreyfus, or by the Greens legal affairs spokesman, Senator Penny Wright, when they both attacked the Human Rights Commissioner as well.

_What is sauce for the goose is sauce for the gander. If it is a matter of disgrace to attack the President of the Human Rights Commission, why is it not a matter of disgrace to attack the second-ranking office-bearer of the Human Rights Commission, the Human Rights Commissioner?_  

_It demonstrates the hypocrisy._

But there is a deeper issue at play here. If Senator Wong, Senator Moore and Senator Milne are right, then the Human Rights Commission is beyond scrutiny. And that cannot be so. The Human Rights Commission is not a court. The principles governing contempt of court do not apply to it. The Human Rights Commission by its very nature is a body that must deal in controversial contemporary public affairs; and, in dealing with controversial contemporary public affairs, it should never be above criticism. No institution of the executive government
should be beyond criticism and beyond scrutiny—not the ministry, not the Public Service, not agencies within the executive government.

This construct is based on the idea that the Human Rights Commission is like a court, which is what Professor Saul says, in evident ignorance of the definitive statement of its function by the High Court in 1995. In 1995, in a case called Brandy v Human Rights and Equal Opportunity Commission. This is what the court unanimously said: ‘The commission is not constituted as a court in accordance with the requirements of chapter III of the Constitution. It cannot therefore exercise the judicial powers of the Commonwealth.’ Senator Wong treats this as me trying to be clever. I am merely trying to explain to her and her colleagues an elementary constitutional principle that an agency of the executive government is not a court and its members are not entitled to the protections from public scrutiny that judges quite properly are.

If it were to follow from what Senator Moore—

Senator BRANDIS: If Senator Wong is right, there could be no criticism of, for example, ASIC; there could be no criticism of the ACCC; there could be no criticism of the Auditor-General; there could be no criticism of the financial regulators; there could be no criticism of the leadership of any quasi-independent statutory agency. I use the term 'quasi-independent' because it is plain from the Human Rights Commission Act that it is not—contrary to what Senator Moore has had to say—absolutely independent.

This parliament should be a guardian, a fierce guardian, of its rights to call members of the executive and the agencies of the executive government to account. And, when the government loses confidence in the leader of one particular agency, the parliament and the public are entitled to know why; they are entitled to ask searching questions of me—which they were afraid to do—and they are entitled to ask searching questions of Professor Triggs.

Senator LAMBIE (Tasmania) (11:47): It is a pleasure to offer my support to this censure motion and vote of no confidence against the Liberal Party's Attorney-General, Senator Brandis, for:

(1) failing to defend the President of the Australian Human Rights Commission, Professor Gillian Triggs, from malicious attacks;
(2) seeking to obtain the resignation of Professor Triggs by facilitating the offer of an alternative role that would have required her to relinquish her position as President;
(3) refusing to fully account for his conduct when appearing before a committee of the Senate;
(4) undermining Australia's commitment to upholding human rights; and
(5) being unfit to hold the office of Attorney-General.

You cannot support Professor Triggs and not support this censure motion. It is either one position or the other. You cannot have your cake and eat it too. The attack by Prime Minister Abbott and the Attorney-General is so vicious and extraordinary; there are no shades of grey in this debate. If you support Professor Triggs, you will support this censure motion against Attorney-General Brandis.

Today, I call on all members of the Senate to vote according to their conscience; against the Attorney-General and for Professor Triggs. In particular, I direct those comments about a conscience vote to members of the National Party—some of whom I know to be honourable. I
know that there are many Nationals who are outraged by the disgraceful personal attacks which have been launched by Liberal Party members, including Prime Minister Abbott and the Attorney-General, Senator Brandis. I call on those senators to cross the floor of this place and vote—to show confidence in a distinguished and honourable Australian public servant who has only made the mistake of telling the truth and doing her job.

The Prime Minister, the Attorney-General and other Liberals must stop their unbalanced personal attacks on the Australian Human Rights Commissioner Gillian Triggs, and get on with the job of ensuring that children are released from detention centres—all the children, not just the children they released before Christmas time; all of them. Stop doing half the job and get the job done properly.

When it comes to securing our borders, I have to give praise to the Abbott government. They did what they promised. They put the corrupt overseas officials, people smugglers and their boats out of business. I am, like many Australians, am grateful for that. They stopped rich foreigners from bribing and rotting their way through Asia into Australia. They stopped the regular, mass drowning of men, women and children at sea. They proved that Labor's and the Greens' immigration policies were dangerously flawed and poorly administered. They increased the chances of legitimate refugees being granted asylum in Australia by legitimate means.

However, the good that the Liberals did for Australia's border protection and national security, is overshadowed by the vindictive, personal attacks that Attorney-General Brandis and the Prime Minister have launched on Human Rights Commissioner Gillian Triggs. Why is the Attorney-General and the Abbott government so scared of a royal commission, as recommended by Professor Triggs? That is the question I would like answered.

When it comes to prioritising human rights abuses, surely the systemic abuse of hundreds of children in our government's care goes to the top of the list. And public servants tasked with their protection, whose job it is to speak out on children's behalf, should be given a medal, instead of having have muck thrown at them by desperate and disconnected politicians.

Most Australians would agree that keeping children locked up in immigration detention camps is a deplorable situation. We all share a great shame because of the dreadful harm, which has occurred to these innocent little humans. A royal commission will help us properly learn the lessons. It will help stop, not only the illegal boats in the future, but also the mistakes we made in dealing with these children. Every one of Australia's major political parties should come in for criticism for the role they played in this humanitarian tragedy.

Mr Abbott promised Australia after the Liberal's party room meeting on that Monday to do things differently. Attacking a respected Australian dedicated to protecting the human rights of innocent children is not only pathetic stupid politics, which will further damage the Liberal brand; it is more evidence that Mr Abbott has not changed. It shows Mr Abbott is incapable of change and is doomed to endlessly repeat the same silly political mistakes which caused his near-death political experience.

Many respected members of academia and the Australian community feel the same way as I do. The ABC reported that Australia's first federal human rights commissioner, Brian Burdekin, slammed 'disgraceful' attacks by Tony Abbott and George Brandis on Human
Rights Commissioner Gillian Triggs. Brian Burdekin said both Tony Abbott and George Brandis have made a grave political disgraceful error in maintaining their attack on Gillian Triggs. He further stated:

I think from the feedback I've been getting - and I still obviously am in touch with a lot of people in the human rights arena: a lot of people in legal circles, a lot of people in non-government organisations who care for the most vulnerable and the most disadvantaged - the feedback has been universally, as far as I can perceive it, hostile to what the Prime Minister and the Attorney-General were trying to do. And to that extent I think it's politically quite unwise. I honestly don't understand why the Prime Minister and the Attorney-General felt it appropriate to do it.

Professor Burdekin also said Senator Brandis did not appear to have a clear understanding of what his role of Attorney-General entailed.

Professor Burdekin also told the ABC:

To be honest, I am deeply concerned that the Attorney-General we have at the minute simply doesn't understand what the remit of the Human Rights Commission is.

I mean, he's actually talked about the fact that we really just need to rely on the Magna Carta. Well, the role of the Human Rights Commission, as Gillian Triggs has pointed out recently and as I pointed out many years ago, is to stand up for the most vulnerable and disadvantaged groups in our community: the homeless, the mentally ill, Indigenous people, people with disabilities, children in detention: whatever. You won't find any of that in the Magna Carta, I can guarantee you.

The things that the Human Rights Commission is obliged to do by law are directly related to those very vulnerable groups and its highest priorities have to be those who are least able to defend themselves.

It has become very clear that the majority of average Australians, including those from Tasmania, are disgusted by the politically motivated, personal attacks on Professor Triggs. We are all sick and tired of this sort of politics going on. We all know that the political attack on Professor Triggs was supposed to somehow appeal to the base of the Liberal Party—and was really designed to boost Tony Abbott's leadership stocks.

Well the genius who put this plan together failed miserably. The attacks on Professor Triggs damaged the office of the Prime Minister and significantly harmed the office of the Attorney-General. Meanwhile there are still well over 200 children who are in detention.

A successful censure motion against the Attorney-General today will have the benefit for the nation of advancing a leadership and policy change for this government. My hope, like many other Australians, is that the leadership of Australia changes and a group of people with a kind hearts who focus on the welfare of those children is given the privilege of leading our great nation and that an Australian Attorney-General who has the respect of his or her legal peers is appointed to the position of our nation's first law officer.

For someone who has high regard, as he has just said, for Gillian Triggs, he sure has one hell of a way of showing it. If I was doing a report card on the Attorney-General, he would get a big tick in the box that says 'poor performance' and a recommendation, like his mate when it came to the canoes, for demotion. I do not believe there is any other way of dealing with this. He has gone way over the line. He is out of order—and for that he must wear the punishment. Let see how big the Liberal government is in dealing with this one.

Senator JACINTA COLLINS (Victoria) (11:56): Contrary to the contribution by Senator Brandis earlier, this censure motion is about the fact that Senator Brandis's behaviour needs to
be scrutinised. Senator Brandis likes the word 'erroneous'. The only problem is that he does not often use it accurately. Let us look at the most pressing example of erroneous. Senator Lambie covered the point that if Senator Brandis is being respectful then please do not be so to me. Indeed, in recent estimates he indicated he thought he was complimenting me. When I challenged that point, half his department laughed. It is common knowledge to all of us here that Senator Brandis's approach is as was described in the opinion pieces this weekend, faux respectful. There is no genuineness in how he deals with these things and often there are a blatant mistruths. I will attempt, in the time I have, to go through some of them.

Let us deal with the first: 'I have only ever said nice things about Professor Triggs.' Well let's look at this one. When the Prime Minister was addressed with the critical point here, which is the call for a royal commission to examine the long-term impacts of detention on the physical and mental health of children, the Prime Minister rejected the calls. He said:

This is a blatantly partisan politicised exercise and their Human Rights Commission ought to be ashamed of itself.

That was Mr Abbott to 3AW. Later in question time he said:

It would be a lot easier to respect the Human Rights Commission if it did not engage in what are transparent stitch-ups.

Oh please compliment me some time. Mr Abbott questioned why the Human Rights Commission had not held an inquiry when Labor was in power when hundreds of people were drowning at sea and there were almost 2,000 children in detention. But the critical point here is Attorney-General George Brandis endorsed the comments:

I entirely agree with the Prime Minister's remarks.

So he entirely agrees with those remarks by the Prime Minister and he comes in here in this faux respectful manner and pretends to suggest that he has never been critical of Professor Triggs. It is outright rubbish, as indeed are a range of the contributions that have come from the Attorney-General and all the way up to the Prime Minister.

This government has completely ignored the clarifications that were provided by Professor Triggs to her evidence from November. It became very clear that senators from the government had not even read that clarification in our last hearing, let alone read the report itself, so let us address some of those issues. The Prime Minister in question time asserted falsely that Professor Triggs had met with two Labor ministers during the caretaker period. We know that is false. So the question I raise, the question I raised in interjections earlier in this debate, is: who is feeding up this tripe? Why is the Prime Minister accepting that advice? Why is the Attorney-General accepting that advice? Why are government senators ignoring what is in front of them, for this witch-hunt?

But let us look at other matters. The evidence by Professor Triggs that was before us on the last occasion highlighted the number of occasions when she had been critical about the detention of children. She handed up this report. How many pages is it? There are 10 pages citing examples of how many times, regardless of which government was in power, she had sought to prosecute this issue, which is her role.

And of course there is the myth going on here from the government side. The government has been able to remove children from detention, and we commend it for that, but the myth is that the report is about the number of children in detention. That report is about the growing
lengths of time that children have been detained. That is what the report is about, and that is what we urgently need to address. Senator Brandis should listen to Tim Wilson, of all people. He told us in the press that he had engaged in collecting some of the evidence for the report, and he reminded us all that it is about the growing length of time that children were being detained under our watch.

But let us look at another area of erroneous reporting: the story of the supposedly armed guards. If anyone has a look at the evidence, they will understand that it is very clear. There was evidence before the Human Rights Commission to that effect. The Human Rights Commission does what it ordinarily does and tests that evidence by giving the relevant department an opportunity to respond to a draft. Indeed, when the department challenged those assertions that were evidence before the commission, the commission rectified its report. It amended the report. So to come in here and suggest that the Human Rights Commission has it way wrong because it is reporting about armed guards is just rubbish—outright rubbish.

But let us look at some of the other things that this debate has—I would argue—deliberately misviewed. One of those is the nature of Professor Triggs's evidence last week. It is suggested that she was asking for an offer. That is rubbish. If you have a look at the nature of her description of why she contacted Mr Moraitis in January, this is what it is. This is from the Hansard at page 40:

And of course to ask the question why the department and the Attorney were not speaking up publicly to refute the inaccurate reports that were in that paper. I am absolutely certain that I was not—

'I was not'—

at any stage asking questions about me at any personal level or about a lack of confidence. That had never been suggested to me, ever. At that stage I was concerned about two things. One, the unremitting level of the criticism in the newspapers, which was not being responded to at all by either the department or the Attorney.

She was not asking for a job. She was asking for the government of the day and the relevant department to respond to what was occurring in this public witch-hunt.

The Attorney claims that there were not personal attacks. I invite him to read Piers Akerman and respond to that personal attack about Professor Triggs's disabled child. It was one of the worst pieces of gutter reporting I have ever read. And he suggests there were no personal attacks. Well, with respect, the Attorney is blind—outright blind.

Going then to the other erroneous aspects of Senator Brandis's contribution, I think it is important at this point to put on the record, as I have worked opposite to Senator Brandis for many years now and in many different capacities, that he has a pattern of behaviour. That pattern of behaviour is, firstly, to deliberately perpetrate misinformation. He has done it consistently, time and time again—whether you go back to the 'children overboard' affair and how circumstances were represented then or, case by case, afterwards. If I have time in a future opportunity, I will probably outline some of those. But he also has a history—again, a pattern of behaviour—of very poor judgement. Again it goes back quite some time. The one I remember was when, as Chair of the Privileges Committee, he pre-empted the consideration of the Godwin Grech matter. He was out there in the public world reflecting on Godwin Grech before we had even commenced addressing the matter. That is not the way the Chair of
the Privileges Committee conducts themselves. But then, we are used to this pattern of behaviour, leading up to the way the Attorney has now conducted himself in this matter.

As Senator Wong said at the outset, Labor does not take censure motions lightly. But, with respect to Senator Brandis, there is, as I have said, a pattern of behaviour that has grown into this most outrageous incident. It is a circumstance in which it did not even occur to him or the government of today that offering—and I will be generous here—what has been perceived to be an inducement was inappropriate. This did not occur to him. He bogs himself down in a debate over whether the Australian Human Rights Commission is independent or quasi-independent. With respect, that is not the point. The point is he has behaved inappropriately and part of that inappropriate behaviour has been deliberately perpetuating misinformation. The Prime Minister did it in the House. The Prime Minister referred to two Labor ministers during the caretaker period. We know that that is patently false.

Since then we have had the government attempt to hide behind the suggestion that Professor Triggs was really asking for it. She was really after that role. Good heavens! How outrageous! Indeed, it went so far, quite contrary to the evidence, last week with Julie Bishop suggesting that she had indeed initiated the interest in the role. There is nothing in any of the evidence—not even in Mr Moraitis's evidence—that gives that one ounce of support. There is nothing to support that at all.

I could spend a bit of time looking at what Mr Moraitis did say, because, apart from the bald assertions of Senator Brandis—actually, before I go to that, I should challenge Senator Brandis's claim that nobody asked him for his contribution. That is rubbish. He was asked by the chair, before we had the morning tea break, to put forward his views on this issue and, indeed, if I recall correctly, he spent a good 20 minutes doing so. Ahead of that, though, after Professor Triggs's opening statement, he again made a contribution, talking about the number of children who were in detention. I do not know if this was some bizarre attempt to say, 'Because I've got figures that are valid here today and they're different to the figures that were produced in this report back in November, I can dispute her on that.' We all know that comparing apples with oranges does not make a good argument, Senator Brandis. We all know that. We did not waste time asserting that in those hearings. Seriously!

Now that I come to Mr Moraitis, let me say that he was a most unsatisfactory witness. I invite anyone to simply observe the body language. The body language alone tells a story. I hope Mr Moraitis regrets that he did not tell the Attorney to go and do his own dirty work. I hope Mr Moraitis regrets that he did not do more earlier to deal with this sordid witch-hunt on the Human Rights Commission. I hope he does regret those things. But I look forward to the clarification he will provide us of his evidence. As I said, the government ignored the clarification that Professor Triggs gave to her November evidence, but I very much am looking forward to Mr Moraitis's clarification of his. We do not know if it was his notebook or a couple of pages of notes. We do not know when he annotated them. We do not know exactly what he said to Professor Triggs, but, on any score observing that evidence, the evidence from Professor Triggs was clear. It was consistent and it was presented in what could be assessed as a credible manner. If you look at the evidence provided by Mr Moraitis, it is a different story. His story on the inducement just does not pass the pub test. Mr Moraitis admits that Senator Brandis sent him to pressure Professor Triggs by advising that the government had lost confidence in her. He admits that he offered her a specific role which
was specifically mentioned: a senior legal role that could be available to her as an alternative to her position with the Human Rights Commission. Mr Moraitis agrees that Professor Triggs's resignation from the Human Rights Commission and the offer of a senior legal role were linked in the sense that 'one would follow from another'. Mr Moraitis expects us to believe that this was not intended to act as an inducement. Please!

Professor Triggs offers a much more solid and much more convincing account of the conversation with Mr Moraitis. Professor Triggs says that her resignation and the new job were definitely linked. She said that there was no doubt in her mind that the two were connected. That is not the only hole in Mr Moraitis's story. He is even trying to claim that the word 'resignation' was not mentioned at their meeting. He says he could not recall whether Professor Triggs's resignation was discussed. 'I do not recall,' Mr Moraitis said repeatedly during last week's estimates hearing. 'I do not recall.' Once again, Professor Triggs's evidence on this point is crystal clear. She says that she is 'absolutely certain' that she was told Senator Brandis wanted her 'resignation'. 'The word "resignation" was absolutely crystal clear to me,' she said. Mr Moraitis must think that avoiding the word 'resignation' will buy him a get-out-of-jail-free card, but he is mistaken. His simply implausible evidence on this point only serves to undermine his credibility, and I suggest he stop serving the Attorney in this way and reflect on his broader credibility that the Attorney referred to earlier today.

It is no wonder that the Prime Minister has faced questions about whether Mr Moraitis's evidence at Senate estimates was truthful and it is no wonder that Mr Moraitis could not bring himself to sit up at the table or speak clearly into the microphone during those hearings. Mr Moraitis did not say much, but his body language told you everything you needed to know. I look forward to the opportunity to question him further because, as Senator Brandis indicated, we did not get anywhere near the full story in those hearings. We did not have an opportunity to bring out the full facts of this tawdry episode.

What we did hear once again was Senator Brandis and his colleagues deliberately perpetuating misinformation. What is even more bizarre was we saw it travel—so it could not just be Senator Brandis in his statement putting misinformation to our committee; it travelled right up to the Prime Minister during question time. It is seriously bizarre that this government still believes it can succeed by perpetuating misinformation that is right before your nose. The press saw it and highlighted it over the weekend. They knew the evidence that was before us. These myths that this government attempts to operate cannot and will not shield it from this exercise of completely inappropriate behaviour by the Attorney following a consistent pattern of perpetuating misinformation. He should know better and about exercising poor judgment— (Time expired)

Senator REYNOLDS (Western Australia) (12:16): I too rise to speak on the censure motion today. I also would like to address the issues that Senator Collins raises in what she calls the erroneous and misleading testimony. I will go through this in detail. As a member of the Senate legal and constitutional affairs committees I very carefully went through the testimony from last week. There were no less than seven separate reasons given by the Human Rights Commission president on why the inquiry was called and four different answers about when it was called. That included five new reasons why Operation Sovereign Borders was, was not, was not and then was the reason and also about the supposed lack of information coming from the department of immigration. I will be going through all of
those very carefully in terms of the facts, but I want to pick up a point from Senator Moore. I totally agree with what Senator Moore said at the end of her speech—that no-one still knows exactly why this inquiry was called. I think inadvertently she has absolutely hit the nail on the head in this debate.

I would like to share with my colleagues here in the Senate my thoughts on this issue. First of all, as a member of the legal and constitutional affairs committees I was not here for the November hearings because I was in the Solomon Islands observing the election. I came back and reviewed why the government had lost faith in the Human Rights Commission president and started to look at the contradictory testimony. Through the course of that I read the report when it was released. I also had a very close look at the president’s involvement in the protest group on this very issue. Right from the beginning I was a little perplexed at how an independent commissioner could also be a member of a very prominent protest group and saying things, ‘Prison wire and terrified kids, where better than this?’

Senator Singh: Mr Acting Deputy President, I rise on a point of order. I would like to know if the senator is actually going to address the censure motion and, if so, defend the Attorney-General or is she going to give some other kind of commentary that is completely superfluous to what we are debating here in the censure motion.

The ACTING DEPUTY PRESIDENT (Senator Seselja): Thank you, Senator Singh. There is no point of order. Censure motions are wide-ranging debates. Senator Reynolds is completely in order.

Senator REYNOLDS: So in preparation for estimates last week I also addressed the issue that is at the very heart of this issue, Senator Singh, with the secretary of the department of immigration. He provided some very pertinent information on this, which I will also come to. My comments today here in defence of the Attorney-General and the government have absolutely nothing to do with gender, as has already been alleged by those on the other side—that our position has been misogynistic and gender-based. I absolutely refute that.

My questions then and today went to the heart of two things: why this inquiry was called and when it was called. To me they are the two most salient questions in relation to the government questioning on this issue and why the Attorney-General lost confidence in the President of the Human Rights Commission. When I looked into this—before the hearing last week, during the hearing and afterwards—I found it was a complete Gordian knot. It was almost impossible to determine what the answers to those two questions were. As I said—and I will go through them in a minute—there were seven separate distinct and contradictory answers as to why it was called and there were four distinct and contradictory answers as to when it was called. Then thrown in, as a bit of an additional bonus, for the first time in the evidence last week we had that Operation Sovereign Borders was actually a factor in it being called. Again I will come back to the detail on that shortly. That was me going into the inquiry and the hearing last week trying to make sense of two very basic questions.

As has been asserted on the other side, getting frustrated at not getting a consistent answer from someone giving evidence is very different from playing the person and from personal attacks. I witnessed no personal attacks from those on my side inquiring, but they were getting frustrated with the ever-changing answers and testimony of the Human Rights Commission.
Let us have a look at a couple of these questions. The first one I had a look at is: when did the HRC decide to launch an inquiry into the welfare of children in migration detention? You would think, given the importance of this issue, it would be a simple response. But I had four answers: the first answer was in February-March 2013; then, in response to a second question, they decided on an inquiry in June-July 2013; then the answer changed to November-December 2012; and the fourth answer, which I had to split into two, was in her letter of clarification on 10 December. The first answer was, 'We decided to conduct a review on 26 June 2013,' which presumably was just a review or an examination under their act, and then almost in the next paragraph of the same letter she said that they had decided to conduct an inquiry in December 2013. By the end of the hearing, last week, I had four different answers to a very simple question.

If that was not confusing enough to those of us listening to this evidence, we then endeavoured to work out the reasons behind the decision to conduct the inquiry into the welfare of children in immigration detention. Again, something that should have been quite simple was clearly not answered correctly or clearly in November, which caused the government to lose confidence in the president. The first answer was, 'The increasing number of children being held in detention in 2012 and 2013 and the policies of the new government not having an effect on the numbers prompted the inquiry.' I had to read that about three times. Here she was saying that the policies of the government were not impacting—

Senator O’Sullivan interjecting—

The ACTING DEPUTY PRESIDENT: Order! Stop the clock. A point of order, Senator McEwen.

Senator McEwen: Mr Acting Deputy President, I raise a point of order. I know Senator O’Sullivan has expressed in the past his preference to hear male voices only, but I would ask him to cease interjecting Senator Reynolds.

The ACTING DEPUTY PRESIDENT: There is no point of order. Senator Reynolds.

Senator REYNOLDS: This might be uncomfortable reading for those on the other side, particularly for Senator Collins who said that she wanted the facts. Well, these are all facts as recorded in Hansard.

Senator O’Sullivan: Inconvenient facts.

An honourable senator interjecting—

Senator REYNOLDS: Absolutely. First of all, in November, the president said there were an increasing number of children in detention; then, the second reason was that the policies of the new government were not having an effect on the numbers. That one really floored me, because clearly Operation Sovereign Borders was a change of policy, and it was having an impact. That is only the first answer.

The second answer, on 24 February this year, said 'The high numbers of children in detention, the increasing amount of time of children in detention and the 10-year review of the 2004 report.' I thought that was in the president's opening statement. A high number children: yes, although they were decreasing. The increasing time in detention: as the president and all of those opposite would know, it is axiomatic. The fewer children in detention, the longer the average time they will be in detention. I thought, 'Has she called an inquiry?,' because we are
actually reducing the numbers of children, and the secretary of the department of immigration confirmed that that was the case.

Then there was the snapshot report, which is very important because that features again later. That was the second point. There are three points. You will note that not in one of those three reasons provided in the opening statement was there Operation Sovereign Borders or a drying up of information—that was on page 7 of Hansard. Then we get to page 20 of Hansard and the answer changes again. The president said, ‘Once Operation Sovereign Borders got underway, it was clear that information from the department of immigration was not as readily accessible.’ Therefore, yes, Operation Sovereign Borders was a factor because of the drying up of information.

There is a fourth answer. On page 20, as well, in Hansard—it was not even another page of Hansard—the answer was, ‘No, it was not Operation Sovereign Borders’. A bit further down, on the same page of Hansard, guess what? It was Operation Sovereign Borders that was an impact. We have not even got to the end of that first page. She then said, ‘No, it was not Sovereign Borders,’ and, just to finish it off, on the same page of Hansard, she said, ‘Yes, it was Operation Sovereign Borders.’

Honourable senators interjecting—

The ACTING DEPUTY PRESIDENT: Order! Senators to my left and to my right.

Senator REYNOLDS: While that may have made a lot of sense to those opposite, it was impossible to determine a new cause, Operation Sovereign Borders. Yes, it was; no, it was not; yes, it was; no, it was not; yes it was in one page of Hansard. Do not forget, it was not just whether Operation Sovereign Borders was a new reason that had never come up before. It was also Operation Sovereign Borders, because they were not getting the information and the information was drying up from the department of immigration.

We had seven different answers in terms of the drying up of this information—an issue that had never come up before and had never been raised with us to the best of my knowledge. We ask again: when did this occur? When did this drying up of information occur? Answer 1: it was after the implementation of Operation Sovereign Borders, which—as everybody here knows—was late September 2013, after the federal election. Answer 2: in December 2013 the information started to dry up. Answer 3—

The ACTING DEPUTY PRESIDENT (Senator Gallacher): Senator Reynolds, please resume your seat.

Senator Singh: Mr Acting Deputy President, I raise a point of order. We are debating a censure motion. It is a motion that has clearly pointed out five points, none of which Senator Reynolds is currently addressing. I ask you to please ask Senator Reynolds to address the censure motion that we are currently addressing, if she is going to speak in this chamber on this motion.

Senator Cormann: On the point of order, Mr Acting Deputy President: Senator Reynolds is entirely relevant to the motion before the chair. The motion before the chair goes directly to the lack of confidence that the Attorney-General has expressed in the chair of the Human Rights Commission. And what Senator Reynolds is doing very eloquently, I might say, is to provide the context in which the Attorney-General has come to the view, which the Labor motion seeks to criticise.
The ACTING DEPUTY PRESIDENT: There is no point of order. Senator Reynolds.

Senator REYNOLDS: I know those opposite really do not like to hear the facts, but these are the facts—and I am very happy to defend the Attorney-General.

Senator Wong: Ah, you mentioned him finally!

Senator REYNOLDS: Given it took Senator Wong, who was there on the day, till four o'clock in the afternoon to ask the Attorney a question, that is a bit rich.

Senator Cormann: Mr Acting Deputy President, I rise on a point of order. Interjections are disorderly, and the Leader of the Opposition in the Senate continues to interject in relation to a debate about a motion which is the most serious motion that can ever be considered by this chamber, so I ask you to call Senator Wong to order so that Senator Reynolds can provide her remarks to the chamber in silence.

The ACTING DEPUTY PRESIDENT: I remind all senators that interjections are disorderly. Senators are entitled to be heard in silence.

Senator REYNOLDS: Thank you, and through you, Mr Acting Deputy President, I would like to thank Senator Wong for extending me different courtesies than I extended to her when she spoke on this same issue.

But, coming back to the very inconvenient truth and some of the facts: we have here a new issue arising altogether, that of the drying-up of information from the department of immigration pre and post the election. There were seven flip-flops on this in the one day. First of all it was post 18 September that the drying-up started. Then it was in December 2013. Then we had this extraordinary flip back to before 17 September, during the caretaker period. Then, even more extraordinarily, the president said: 'Actually the information started drying up before the caretaker period, and we had been noticing a drying-up of information from the department before caretaker'—that is, under the previous government. Then, in answer to more questions, the president said that she had in fact written to the secretary of the department of immigration on 17 September 2013 about this drying-up of this information. We then said, 'Was that in relation to Sovereign Borders?' 'No. It wasn't in relation to Sovereign Borders or to this current inquiry. It was relating to the snapshot report.' The next flip-flop on this was that the drying-up of information happened on 5 August. Then it went back—answer No. 5—to after 7 September. Then it flipped back to after 18 September. Then, extraordinarily—and I have to read this one out because it left me completely confused—it was presumably during the caretaker period but it was actually after that as well. That is somewhat confusing. So here we have seven different answers on when the information dried up.

The letter that went to the secretary of immigration was not in this timeline. The president had provided a comprehensive report on the timeline of all of the correspondence that had gone from the HRC to government and to the department of immigration. Over the course of the testimony, we found that there were at least two pieces of critical correspondence that were not listed in here, including the one to the secretary of the department of immigration. Interestingly, remember it was 17 September when the president wrote to Mr Bowles about this drying-up of information for the snapshot report. But, in the snapshot report itself, it says that the information in fact was received from the department of immigration on 16 September, a day before she wrote to the secretary of immigration. So what remains
completely unaddressed yet is this. She said that, once Operation Sovereign Borders got underway, it was clear that information was not as readily available. Well, that has been comprehensively refuted in her own testimony that day, and it is still not clear why it was called and when it was called, as Senator Moore so rightly said.

I am also very supportive of the Attorney-General and his actions and those of the Secretary of the Attorney-General's Department. One of the things that became very clear in the estimates for Immigration the day before, and then in this inquiry, was that the Human Rights Commission had a range of issues that were not addressed that should have been addressed in the report, on basic, fundamental natural justice and procedural rights. The Secretary of the Department of Immigration and Border Protection confirmed this last week. I would like to read out now his response in the report. He says, on 10 November:

… the Department has already identified a wide range of concerns regarding the manner in which evidence and information provided to the Inquiry has been evaluated and utilised …

Whilst the Department acknowledges that the Commission has made some substantial changes to the findings and has also made some changes to the final report, I note that these changes appear to only partially address the specific examples raised …

What were those specific examples he raised in the Human Rights Commission report on such an important issue? Claims not affording procedural fairness or right of reply; untested claims and subjective observations; overreliance on the commission's own experts; little or no weight afforded to policy and procedure of the department and its contracted service providers; and dismissal of evidence provided to the commission. For those who have not yet read the Department of Immigration and Border Protection's submission, it absolutely brings into question this whole report, in my mind, due to lack of procedural fairness and equity.

Let's face it; the other issue is: why did we need this report? You could ask any Australian: 'Is detention a good thing for children?' Of course it is not. We had a report 10 years ago. We all agreed then that detention was no place for children or for adults. We stopped the boats, we closed the detention centres and there were no children left in detention. I think the biggest shame in all of this is that those opposite have been playing the man—that is, the Attorney-General and the Secretary of the Attorney-General's Department—when the facts are very clear. We need to get back to—and I would ask all senators in this place to get back and have a look at—the facts of this case.

The facts are that we currently have seven different reasons from the president and her office about why it was called. We have four separate and distinct reasons for when it was called. Last week—and this has remained untested in all of the other colour and movement on this—Sovereign Borders was, was not, was, was not and then was a factor, and there were seven different answers about when this supposed information dried up. These are the things that I think the Senate should now be pursuing to get clarity on this issue. I also believe that these absolutely demonstrate why those on our side were frustrated with the evidence that was provided in November, which caused the Attorney-General and the government to lose confidence in the president. Again, nothing that I heard in that hearing on examination of the testimony provided any clarity on those two key questions. In fact, what I heard further complicated them. So I very much support the Attorney-General and the position he has taken on this issue, and I would ask all of us to look at the facts and the issues. 
I am a very strong supporter of the Human Rights Commission and of having a Human Rights Commission, but it must be politically impartial. We have a right to expect that it will on occasions be critical of the government in discharge of its statutory function. However, the commission must maintain the confidence of both sides of politics, and it must not be politically partisan. I believe from my review of the evidence that the only possible conclusion from Professor Triggs’s inconsistent evidence last week is that the decision to hold the inquiry into children in detention was politically partisan. It saddens me to say that, but the evidence on the key questions that count, I think, clearly demonstrates that it was a partisan report on a critical issue for this country.

I support the Attorney-General and the actions he has taken, and I strongly support and endorse the actions of the Abbott government to stop the boats, to stop people drowning and to get kids out of detention.

Senator WRIGHT (South Australia) (12:39): I stand to support this censure motion against the Attorney-General because the Attorney-General has fundamentally failed to do his job while standing by and then ultimately attacking the President of the Human Rights Commission, Professor Gillian Triggs, for doing her job so well.

One of the most important aspects of the job of any Attorney-General in Australia is to uphold the rule of law. It is to defend the judiciary, to defend independent statutory office holders like Professor Triggs and the commissioners of the Human Rights Commission, and not to actively undermine the confidence of the Australian public in our legal institutions. They are the institutions in our system that ensure that there are checks and balances on power, and we all undermine them at our own peril. It is absolutely crucial that we have a principled officer in the position of the Attorney-General to uphold the rule of law.

'Rule of law' is a term that is thrown around a lot. Just for those who are listening who may not be quite clear on what it is, it basically says that in Australia, as in all democracies, we will have a rules-based system of dispensing power and acting on power so that we are not subject merely to the arbitrary decisions of government. We have laws. We have laws that are open and transparent. We can know what they are; we can find out what they are. Those laws will be applied fairly and without fear or favour, no matter how powerless a person within the society may be. The alternative to a strong rule of law is to have arbitrary decision making and power exercised by the powerful and governments.

I went to the Attorney-General's Department website to understand a little more about the role of the Attorney-General's Department and the Attorney-General as foremost law officer in the land. The department say that their primary responsibility is to support the Australian government 'in protecting and promoting the rule of law'. They note—quite accurately, I think:

The rule of law underpins the way Australian society is governed. Everyone—including citizens and the government—is bound by and entitled to the benefit of laws.

The department's website says:

We support the Australian Government in being accountable for actions, making rational decisions and protecting human rights.

I say: good luck with that, Department, if you have a foremost law officer who is clearly seen not to uphold and respect those very principles. The department's website also says:

CHAMBER
We advance the rule of law internationally by actively promoting adherence to the global rules-based system and helping to build effective governance and stability in our region.

That global rules-based system is otherwise known as international law, yet we have seen a government that, since coming into office, has set about almost systematically downgrading Australia's respect for international law principles. I will come back to that.

Instead of upholding the rule of law and these crucial institutions in Australian society that ensure that there will be checks and balances on power—defending the judiciary and defending independent statutory office holders like Professor Triggs and the commissioners of the Human Rights Commission—this Attorney-General has initially stood by and allowed ministers, including the Prime Minister, of his government to attack them. Not only has he been gutlessly standing by—one can only assume complicit in that—but he has actually now come out and attacked them himself. Of course, now we know from the infamous estimates hearing that I was unfortunate enough, perhaps, to have to witness for a period of a day last week that he has come dangerously close to breaching the Criminal Code by directing his department secretary to offer Professor Triggs another position in exchange for her resignation.

The Australian Greens say that, if anyone is going to resign over the Human Rights Commission's report into the treatment of children in detention, it should be the Attorney-General, Senator George Brandis, and not Professor Triggs. From the evidence we already have, it is apparent that the Attorney-General put undue pressure on an independent office holder to resign simply because he did not like what she was saying—simply because she was doing her job and she was doing it too well. It is interesting—ironic, rather—to hear Senator Reynolds talking about playing the man. It is this government which has sought to actively play the man—or play the women, in this case—in allowing relentless attacks on the President of the Human Rights Commission. This is a matter of shooting the messenger.

The President of the Human Rights Commission in Australia is appointed for a five-year term specifically to avoid political interference. In fact, under the law, commissioners can only be removed on grounds of misbehaviour or physical or mental incapacity. I specifically asked the Attorney-General in estimates last week: was he aware of any breaches of the Australian Human Rights Commission Act or any errors of law on the part of Professor Triggs or the Human Rights Commission that would give grounds for concern and that would give grounds to remove the president from her position? He responded, 'No,' but he also, tellingly, went on to respond that Professor Triggs was guilty of 'a terrible error of judgement'. He later upped the ante even more and described the error of judgement on the part of Professor Triggs as 'a catastrophic error of judgement'.

It is very, very clear that the error of judgement alleged to have been committed by the President of the Australian Human Rights Commission was that she did not take seriously enough the willingness of this Attorney-General and this government to get rid of her if she insisted on doing her job properly and making sure that the Australian public is aware of the situation of children in detention, a situation that has been an ongoing under the previous government and this government. For anyone who has taken the trouble to actually read the report, it is absolutely clear that it is written in a non-partisan way. Throughout, it attributes responsibility for the situation that we have with children in detention to both the previous
government and this government. Only a government which is intent on shooting the messenger would try to suggest that this is a partisan report.

I witnessed the first barbaric, badgering, intimidatory questioning that occurred of Professor Triggs at estimates last year, and then I witnessed the session last week. What I saw was a woman of absolute principle who, I think, probably never really imagined that a person in her position, who has such a sense of propriety and such a strong reputation as a fearless lawyer, would be besmirched so politically. She probably has a lot of reckoning to come to now to understand that, in this country in 2015, we have a government that is willing to rip her down, destroy her, ignore the principle and ignore the report that she has provided to government, which is substantiated by objective witnesses who attended the immigration detention centres and saw the plight of those children. She would have had no expectation of this attack because she has in fact conducted herself in such a proper and blameless way. I think it must have taken her completely by surprise to see the attack that she was going to be under for this report. In the end, Professor Triggs has done nothing worse than embarrass an acutely sensitive and vengeful government—nothing worse than do her job to put people before politics; nothing worse than that.

The Human Rights Commission is an independent statutory body. It is designed to be separate from government and to keep an eye on government—every government, irrespective of its complexion. Part of its job description is to inquire into any act or practice that may be inconsistent with or contrary to any human right. That inevitably means saying things a government, any government, may well not want to hear. It is an effective and efficient complaints resolution body. In 2012-13, the Human Rights Commission assisted over 17,000 people and organisations and is recognised internationally as an A-status national human rights institution. It is an institution of which Australia can be justifiably proud on the world stage.

The Human Rights Commission in Australia gives voice to otherwise voiceless and most vulnerable members of our society. It stands up for disadvantaged groups in our community. It stands up for people like the homeless, the mentally ill, Indigenous people, people with disabilities and children in detention. A case in point is the Forgotten children report, which revealed institutionalised child abuse by governments in Australia. It exposed sexual, physical and psychological abuse as a result of the Australian government's indefinite detention policies. That it reveals the shocking human rights abuses that are part of Australia's immigration policy is not a biased or partisan thing to do. The Labor and Liberal parties have an almost identical position when it comes to the treatment and detention of asylum seekers, and the commission's report—if anyone takes the time to actually read it—makes it very clear that the current government and the government before it are complicit in this abuse.

Human rights and legal organisations, including the Australian Bar Association, the Law Council of Australia, the United Nations and other international human rights bodies, have come forward to defend the Australian Human Rights Commission and its president from these unprecedented attacks by this government and by the Attorney-General. Law experts have warned that these attacks jeopardise our democratic system. The Australian Bar Association in January of this year expressed concerns that governments risk undermining public confidence in the independent courts, tribunals and commissions which protect and uphold the rule of law in Australia. Indeed, it is interesting to see that the chair of the
Australian Bar Association, Mr Mark Livesey QC, stated—and this goes to the crux of this debate:

It is not the role of the Commission—or a court—to decide how odious—or worthy—a person is and then to apply the law on that basis. The proper role of any court, tribunal or commission is to apply the law objectively and impartially.

That is why the Human Rights Commission being able to perform its functions fairly and fearlessly is absolutely crucial for all of us—for any of us—because we all have human rights that might need a champion one day.

We have the joint statement of the Law Council and the Australian Bar Association in February of this year:
The attacks on Professor Gillian Triggs and the Australian Human Rights Commission following the release of the Report "The Forgotten Children", are alarming …
That was signed by Fiona McLeod, senior counsel and President of the Australian Bar Association, and Mr Duncan McConnel, President of the Law Council. They point out that Professor Triggs has a distinguished career in law and is highly respected.

As well as that, we have legal academics stepping up from all over Australia to support the role of Professor Triggs, her character, her work and the role of the Australian Human Rights Commission. We had a letter that was signed by 25 Australian legal academics. Interestingly, they chose to send that letter to The Australian newspaper, which has been at the forefront of these attacks on Professor Triggs. In the interests of transparency, openness and genuine debate in Australian society, did The Australian newspaper publish that letter? No they did not.

We also have the International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights, which is the United Nations global umbrella body for such institutions, writing a strongly worded letter to the Prime Minister of Australia, expressing their deep concern that these attacks seek to call into question the independence of the office which Professor Triggs holds and cause harm to her professional integrity. That letter also points out:
It furthermore undermines and intimidates the statutorily granted independence that is provided to the AHRC as the country's principal human rights body.
The letter points out:
In a healthy democracy, a NHRI report—
Such as the report from the Australian Human Rights Commission into the forgotten children—
should be received within the spirit that the contents and recommendations contained therein are to further the adherence to international human rights norms and standards and ensure the promotion and protection of human rights.
It is a frightening thing when our government believes it can attack the very institutions that are designed to hold it to account. That is why we must show our censure. We must take action when we have the foremost law officer of the land being privy to and a part of those attacks.

There are various other attacks that have occurred against the Human Rights Commission in Australia. They start with the cuts to the funding of the Human Rights Commission—a 30
per cent funding cut in December of last year. And then we had a series of attacks by
government—by the Prime Minister and by other ministers—in relation to a report which has
been mentioned earlier today, the Basikbasik report by the Human Rights Commission.

So we had the Prime Minister ruling that the decision and the judgement of the president of
the Human Rights Commission, Professor Triggs, was pretty bizarre, showing extremely
questionable judgement. Was that on the basis of her legal judgement? No, it was not. It was
actually her political judgement, because she was not being populist and she was not
sufficiently taking into account the concerns expressed by the government of the day; she was
doing her job.

As I said earlier, Mark Livesey, of the Australian Bar Association, said it is not the role of
the commission or a court to decide how odious or worthy a person is. A person in Australia
has human rights and has a right to have those human rights upheld. If we start to pick and
choose as to who is worthy of having human rights—indivisible, universal human rights—we
are running down a very risky, slippery slide.

This is part of a broader pattern. Let us not forget this: this is part of a broader pattern by
this particular government, which includes funding cuts to legal services and allowing gag
clauses against advocacy being inserted into contracts with non-government organisations.
These cuts and these gag clauses are sending a very clear message that organisations that
advocate and which stand up for the most vulnerable against the most powerful are at risk.

The thing about human rights is that we all have them. One day any one of us may need a
champion who is willing to stand up against a government—a powerful government—and its
powerful backers and defend us. That is the role of organisations like the Australian Human
Rights Commission and that is the role of someone like the president of the AHRC, Professor
Triggs. The personal, derogatory and unsubstantiated attacks by the Abbott government on
the president of the commission risk causing harm not just to her professional reputation—
although the number of people lining up to support her and to show the high esteem in which
she is held will probably mitigate against that—but actually risk causing irreparable harm to
Australia's public confidence in the commission and the vital services it provides. Ultimately,
it risks causing harm to our democracy itself.

The Attorney-General has said himself that the ongoing relationship between him and the
President of the Australian Human Rights Commission is untenable. If someone has to go,
then, it should be the person who has not been doing their job. It should be the Attorney-
General—not Professor Triggs, who has been doing her job in an exemplary manner.

Senator XENOPHON (South Australia) (12:57): Can I just put some matters into
context? Firstly, in relation to the Human Rights Commission report in respect of children in
detention: the Human Rights Commission did call for a royal commission into children in
detention. I think that call is warranted. The terms of reference are a matter for the
government of the day. I would urge the government to seriously consider what the Human
Rights Commission has set out in a very comprehensive report.

There may be criticisms that have been traversed by members of the government as to
whether the commission should have taken a greater role, or a more prominent role, in respect
of these matters. I think Senator Collins has made the point that these are matters that were
traversed by the commission both during the term of this government and in the term of the
previous government. But there are some in the coalition that raise the point that the particular emphasis, or the criticisms, of the government seem to be more trenchant than for the previous government. I think there ought to be a royal commission, and perhaps the terms of reference could look, if there were such a royal commission, at whether there was an appropriate emphasis on children in detention under the previous government by the commission as well.

I also want to reflect on the comments made by the communications minister, the Hon. Malcolm Turnbull, last week at a doorstep, where he made the point in the broader context in relation to Professor Triggs:

When the Labor Party won office in 2007 there were no children in detention because of the Howard Government's successful management of our borders. There were no boats, there was no people smuggling, and so there were no kids in detention.

As you know, Kevin Rudd changed the policy, there was a massive increase in people smuggling, a massive increase in unauthorised arrivals, and we had a peak of 2000 kids in detention and at the time that we came into government, when Labor was voted out in 2013, there were about 1,400 children in detention. That number, in terms of children onshore is 126 and as you know from what Mike Pazullo said in estimates this week that is rapidly coming down.

I agree with Malcolm Turnbull when he says:

So the bottom line is this: any child in detention, one child in detention is one child too many. You know, this is not -- everyone is anguished by having children locked up in detention. We don't want to have any children in detention. The best way for children not to be in detention of course is for them not to get on to people smugglers' boats. And of course we've effectively ensured that by stopping the boats, by Scott Morrison stopping the boats.

Those are Malcolm Turnbull's comments. I think there is some real merit in those. So that gives it context.

The Attorney-General is right to say that the Human Rights Commission is not a court as such. It may well have quasi-judicial powers and it may look like a court in the way it functions, but the High Court's decision in Brandy v Human Rights and Equal Opportunity Commission some 20 years ago made it clear that the commission is not constituted as a court in accordance with the requirements in chapter 3 of the Constitution, so for the Leader of the Opposition in the other place to claim last week that any criticism by the government was an attack on the separation of powers is actually incorrect.

I also respect the Attorney's right to express his brutally frank assessment that he does not have confidence in the President of the Human Rights Commission. I do not believe the Attorney has engaged in malicious attacks on the president of the commission, but I believe others have. I also query whether the Prime Minister's statements in the chamber last week overstepped the mark. They certainly went beyond any statements made by the Attorney. I certainly believe others in the community have engaged in attacks that appear to be malicious against the President of the Human Rights Commission. For that reason, I believe the Attorney ought to have defended Professor Triggs against those malicious attacks.

Having said that, I too have criticised the president of the commission on the Basikbasik matter. It was traversed by Senator Abetz. I have publicly criticised Professor Triggs for what seemed to raise serious questions of a lapse of judgement in that matter. I should note that the commission provided to my office, politely and comprehensively, an explanation of the
president's position, for which I am grateful. I respect that but still consider an error was made by the President, but that does not mean, however, that it in any way justifies that she should resign. There is a fine line sometimes between criticism and malicious attacks. I do not believe the Attorney has engaged in the latter, but he has not defended the president of the commission in relation to those attacks, so I support the first part of the motion.

On the second part of the motion—the evidence of Professor Triggs at estimates that there was no doubt in her mind of the offer of an alternative position and the pressure to resign—I believe Professor Triggs and I note the comments that Malcolm Turnbull made about her: a distinguished legal academic, someone whom I believe is a person of integrity. I have no reason not to accept what she said in estimates. I think any such approach was unfortunate and, in the circumstances, inappropriate, but that should not in any way imply that it was in any way unlawful.

In relation to paragraph 3, I listened very carefully to the Attorney's contribution. I believe he did answer questions in estimates on this, but I respectfully suggest it was not necessarily a full account. I am not suggesting he was evasive as such, although I believe his contribution today did give a fuller account, although there are unanswered questions in respect of this whole issue.

In relation to paragraph 4, it follows that if you accept paragraph 1, it could be argued that this could be seen to be undermining Australia's commitment to uphold human rights. I believe this is something that can be remedied by the government and the Attorney in particular by repudiating those malicious attacks on the President of the Human Rights Commission to draw that very clear line.

But I cannot support paragraph 5, which asserts that the Attorney is unfit to hold the office of Attorney-General. It is, respectfully to the opposition, in my view overreaching. To suggest the Attorney is unfit to hold his position as the first law officer of the Commonwealth carries with it connotations that go beyond the effect of such a claim against any other minister. In the legal context, unfitness does imply—for a judicial officer, for instance—all sorts of connotations. You can criticise the Attorney for his conduct on a particular part of his portfolio, but it does not follow that he is unfit to hold that office and that by implication he should resign. I believe a minister is unfit to hold office if he or she is grossly incompetent, corrupt, exercising powers maliciously or guilty of malfeasance in the exercise of his or her duties. It is of that order where unfitness applies in my view and, particularly in the context of the first law officer of the Commonwealth, I believe there is a high standard.

The Attorney's conduct, his explanation to the chamber today and indeed his answers to estimates I do not think approach any of those criteria of unfitness to hold office. I believe he has erred significantly in the handling of this issue. He has argued his case passionately this morning, but notwithstanding that I still have to disagree with the approach he has taken.

So I can find myself supporting the first four parts of the motion but not the last part. If it is in an amended form, I will support the first four parts, but I understand that the will of the Senate could be to support the motion as a whole. With some irony, I believe this motion overreaches in the same way the government has overreached in its criticisms of and attacks on Professor Triggs.
Senator WONG (South Australia—Leader of the Opposition in the Senate) (13:05): I rise to speak in closure on the debate and I want to make some very brief points. The first point I make is that the government has manifestly failed to defend the Attorney-General, Senator Brandis. The consistent approach from government senators has been to continue the attack and criticism of Professor Triggs, and I think that demonstrates the paucity of the defence of the Attorney-General.

The second point I make is in response to the Attorney-General's proposition that he is entitled to express no confidence in the President of the Australian Human Rights Commission. I say to this chamber that his actions and the actions of this government have gone well beyond that. What we have seen is a partisan, nasty, undignified and personal campaign to oust the president of the commission, to oust a statutory office holder. This Attorney-General has been complicit in it and he has been a party to it.

The next point I want to make is a timing point. It is important to note when on the uncontested evidence the meeting between Secretary Moraitis, doing the bidding of the Attorney-General, and the President of the Human Rights Commission occurred. The report in question was handed to the government in November 2014. The discussion with the secretary in which he, at Senator Brandis's request, indicated no confidence, offered another job and, on Professor Triggs's evidence—which I certainly think had more weight—encouraged her to resign occurred on 3 February, and the report was on 11 February 2015. So we had the Attorney-General of Australia seeking to pressure the President of the Human Rights Commission to resign before the report was made public. When she did not resign, the avalanche of attacks began; and they continue. This government and its Attorney retaliated directly by unleashing the attack dogs from the Prime Minister down.

I say, and we say, the Attorney-General should be censured. He failed to carry out his role, as Attorney-General, of defending the Human Rights Commission from political attack. In fact, he joined in on the attack, which was aimed at intimidating the president. He sought to subvert the statutory protection of the president's position by pressuring her to resign and by offering an alternative position. If he had succeeded, this would have seriously damaged the independence of the commission. I ask the chamber to consider what message this would have sent to other agencies in his own portfolio, like the Australian Federal Police, the Commonwealth Director of Public Prosecutions, the Australian Law Reform commission and others. The message would have been, 'Toe the line or your job will be on the line.' This is not the conduct we expect of the first law officer of the land. It would have created a chilling effect for all independent agencies in this nation, from the corporate regulators to agencies charged with protecting the rights of consumers.

The nub of the Attorney-General's argument is that he excuses his conduct by saying that the commission is not a chapter III court, therefore it is not independent of the executive government. This justification for these political attacks and his conduct will certainly be startling news to agencies like the Australian Securities and Investments Commission, the tax office and the Competition and Consumer Commission, whose independence from political interference is so important. I am extremely disappointed that Senator Xenophon has swallowed this defence, because the Law Council of Australia, the Bar Association and lawyers across the country have not swallowed this defence. It is a spurious argument.
We say: Senator Brandis's conduct shows he does not understand his role as Attorney-General. It shows he does not understand how to behave. It shows he is not fit to hold this office, and this Senate should censure him. This Senate should stand as a bulwark against this excess and abuse of executive power that we have seen in relation to a statutory body. We should support the independence of the commission. This minister should be censured.

The ACTING DEPUTY PRESIDENT (Senator Gallacher): The question is that the motion moved by Senator Wong be agreed to.

The Senate divided. [13:14]

(The President—Senator Parry)

Ayes .................. 35
Noes .................. 32
Majority ............. 3

AYES

Bilyk, CL          Bullock, J.W.
Cameron, DN       Carr, KJ
Collins, JMA      Conroy, SM
Dastyari, S       Di Natale, R
Gallacher, AM     Hanson-Young, SC
Ketter, CR        Lambie, J
Lazarus, GP       Lines, S
Ludlam, S         Lundy, KA
Marshall, GM      McEwen, A
McLucas, J        Milne, C
Moore, CM         O'Neil, DM
Peris, N          Polley, H
Rhiannon, L       Rice, J
Siewert, R        Singh, LM
Sterle, G         Urquhart, AE (teller)
Wang, Z           Waters, LJ
Whish-Wilson, PS  Wong, P
Wright, PL

NOES

Abetz, E          Back, CJ
Bernardi, C       Birmingham, SJ
Brandis, GH       Bushby, DC
Canavan, M.J.     Cash, MC
Colbeck, R        Day, R.J.
Edwards, S        Fawcett, DJ (teller)
Fierravanti-Wells, C  Fifield, MP
Heffernan, W      Johnston, D
Macdonald, ID     Mason, B
McGrath, J        McKenzie, B
O'Sullivan, B     Parry, S
Reynolds, L       Ronaldson, M
Ruston, A         Ryan, SM
Scullion, NG      Seselja, Z
Sindoninos, A     Smith, D
Williams, JR      Xenophon, N
Monday, 2 March 2015

SENATE

PAIRS

Brown, CL
Ludwig, JW

Nash, F
Cormann, M

Senator Payne did not vote, to compensate for the vacancy caused by the resignation of Senator Faulkner.

Question agreed to.

COMMITTEES

Meeting

The Clerk: Proposals have been lodged for committees to hold public meetings as follows:

Economics References Committee—public meeting during the sitting of the Senate on Wednesday, 4 March 2015, from 9.30 am, to take evidence for the committee's inquiry into digital currency.

Finance and Public Administration Legislation Committee—public meetings during the sittings of the Senate as follows:
- today, from 5 pm, to take evidence for the committee's inquiry into the Department of Parliamentary Services
- Monday, 16 March 2015, from 5 pm, to take evidence for the committee's inquiry into the Department of Parliamentary Services.

Joint Standing Committee on Foreign Affairs, Defence and Trade—public meeting during the sitting of the Senate today, from 10 am, to take evidence for the committee's inquiry into human rights issues confronting women and girls in the Indian Ocean—Asia Pacific region.

The PRESIDENT (13:17): I remind senators that the question may be put on any proposal at the request of any senator.

BILLs

Fair Work (Registered Organisations) Amendment Bill 2014

Second Reading

Debate resumed on the motion:

That this bill be now read a second time.

Senator RHIANNON (New South Wales) (13:17): This is the third instalment of my speech on this matter. This bill is a real reminder as to why this bill clearly should not be passed. This bill is designed to be the latest instalment in the considerable attacks that this government is running on the union movement. We have seen 'Colonel Abetz' roll out his ABCC—

The ACTING DEPUTY PRESIDENT (Senator Gallacher): Senator Rhiannon, you are reminded to address honourable senators by their correct title.

Senator RHIANNON: Thank you for that assistance. This piece of legislation is the latest round in a whole wave of attacks we are seeing mounted on the union movement, from the
Australian Building and Construction Commission to the problems with the royal commission. This legislation itself is very damaging.

One of my big concerns is that the attacks are aimed at unions, like the CFMEU, who are out there working with the workers on the job around the very important issue of occupational health and safety. This government so often attempts to limit the ability of unions and the workers on the job to defend adequate safety standards at work. Everybody has a right to expect that when their loved one goes to work that person will come home of an evening.

When the Howard government was in power, there was such a serious attack on unions that the number of deaths occurring on the job increased at that time. This is again a reminder as to why we need to not allow this legislation to pass.

There is the interesting case with regard to Boral. Boral Chief Executive, Mike Kane, has called on other construction companies to join him in attacking the CFMEU, which he asserts is driving down productivity. We all know those arguments; we hear them time and time again.

It is worth noting that Boral, between 1998 and 2008, donated more than $540,000 to the Liberals, the Nationals and the Labor Party; $300,000 of this went to the Liberals and Nationals alone. You see the money going to those political parties and in this place you see the Liberals and Nationals line up to amplify their attacks on the union movement.

While Boral have had an easy run in the media, increasing their accusations of blackmail and boycotts, what should have been hit in the headlines was the many safety breaches that this company has been involved in. Boral Construction Materials was fined $200,000 in 2004 following the death of a roadworker in Goulburn in New South Wales. In South Australia, Boral Masonry has been fined for serious workplace accidents.

This is where we need to be clear. The allegations from Minister Abetz about blackmail and boycotts are because the workers and their unions are calling on employers and the government to put workplace safety first, and because they are working for improved on-the-job conditions. The Greens strongly support workers’ rights to take industrial action, and the right to strike is something set out in our policy.

I think what is also relevant in this debate is that the Australian Competition and Consumer Commission has taken out a case against a unionist and the CFMEU. The ACCC Chairman, Rod Sims, has publicly stated that they could face fines of up to $10 million for secondary boycotts taken against Boral, which was supplying concrete to Grocon, the company the CFMEU was in dispute with over major industry breaches—again, relevant detail to this debate. A subsidiary of Grocon was fined $250,000 in November last year for what the court called ‘failing to ensure a safe workplace’. Three people died in a workplace accident.

Meanwhile, the CFMEU has been fined millions of dollars for trying to make the workplace safe. This union has already paid $1.25 million over its dispute with Grocon. So there we have it: three people die in workplace accidents and there is a $250,000 fine. The CFMEU was fined $1.25 million for fighting for a safe workplace. The dispute with Grocon and Boral is over the union’s demand that union nominated health and safety representatives be employed on all construction sites.

Surely the minister, in his speech in reply, should detail what is wrong with that. Construction workers are facing an increasing risk of injury. We know when there is less
regulation more workers die on these jobs. He should be setting out why he wants to limit those rights. To have a safe workplace, to reduce the chances of workers being killed and maimed at work, we do need the regulations, we need the standards and they need to be put in place very quickly.

Who is investigating the intimidation of workers ordered to work under unsafe conditions? That is a question that Senator Abetz needs to set out. Why are these incidents not investigated by his office or by the royal commission? Why do the terms of reference for the royal commission not allow it to investigate the corruption, the intimidation and the failure to ensure a safe workplace by companies?

Our generation cannot allow hard-fought-for workplace rights to be wound back. While the Abbott government prioritises the sectional interests of those whose concerns do not go beyond increasing their profits, the Abetz war will rage. He might win some battles but he is not going to make workplaces safer.

Senator FIERRAVANTI-WELLS (New South Wales—Parliamentary Secretary to the Minister for Social Services) (13:24): What would one expect from the Greens? It is always very interesting, Senator Rhiannon, that you come into this place. We just heard your very spirited defence of the CFMEU but what you forgot to tell us about the proceedings between the CFMEU and Boral was the absolute culture of silence and fear of reprisal that is very much a feature of the building and construction industry. Indeed, ACCC Chairman Sims, during the course of those proceedings, had this to say:

The ACCC has only been able to progress the investigations by compelling people to give evidence. Indeed, without the ACCC's compulsory powers, the serious wrongdoing alleged could not have been put before the court. And that is one of the reasons why this legislation should be passed.

But of course the Greens as well as those opposite are heavily conflicted in this matter. It is not surprising why they are not supporting this legislation. The Australian Electoral Commission returns, which were released on 2 February, show that the CFMEU contributed $1.33 million to the ALP in 2013-14. Senator Rhiannon failed to tell us that the CFMEU also donated $145,000 to the Australian Greens. Indeed, overall, the figures show that the ALP has received $9.64 million from the unions and the Greens received $465,000 including also $300,000 from the ETU.

So, Senator Rhiannon, do not come into this place with your sanctimonious lectures. If you are going to put your sanctimonious lectures to us, perhaps you might also disclose your conflict of interest on this issue by disclosing that you are in here as a mouthpiece for the CFMEU.

The ACTING DEPUTY PRESIDENT (Senator Gallacher): Senator Fierravanti-Wells, I remind you to address your comments through the chair.

Senator FIERRAVANTI-WELLS: Thank you, Mr Acting Deputy President. I rise to speak today on the Fair Work (Registered Organisations) Amendment Bill 2014. There are two words that sum up the need for this legislation. Over 10 years in this place, I have pursued a number of matters. One of these was that the sordid saga that became the Craig Thomson affair. Those are the two words why this legislation needs to be passed. Craig
Thomson, the disgraced former Labor member for Dobell and one-time secretary of the Health Services Union in his maiden speech, which I have quoted in the past, stated:

The support I received from the entire union movement and of course my own union, the Health Services Union, was phenomenal.

Little did we know the extent of that support that the HSU gave. How ironic that Mr Thomson's comments, with the wisdom of hindsight, were made exactly seven years ago in the other place.

When people think of the Health Services Union, they might imagine a cohort of doctors and highly-paid medical professionals who are financially stable and extensively educated in their chosen field. In reality, the union fund that Craig Thomson stole from was financed largely by people of considerably less wealth. Indeed, most of them were aged care workers who penny pinched on a minimum wage to have their hard earned salary funnelled into feeding Craig Thomson's habits.

Senator Abetz in a media release on 17 December after Craig Thomson was sentenced was absolutely correct when he referred to the moral decay that was and is the long and shameful saga of the Craig Thomson affair, which showed the reason why we need a registered organisations commission.

What did that sad and sorry saga cost the taxpayers of Australia? It cost $4 million through the Fair Work Commission inquiry alone. So as we call on those opposite to support the coalition's registered organisation bill, I ask those opposite: how do you know that there are not more Craig Thomsons and Michael Williamses out there? I believe that there are and that the HSU was only the tip of the iceberg.

So what did the Labor Party do? What did the Labor Party do?

Senator Cameron interjecting—

Senator FIERRAVANTI-WELLS: You defended him to the hilt, Senator—through you, Mr Acting Deputy President. You defended him to the hilt. And I see Senator Dastyari sitting next to Senator Cameron. You defended this guy to the hilt. Shame on you. Shame, shame, shame on you, and shame on the former Prime Minister, Julia Gillard, when repeatedly she was asked—

Senator Cameron: Mr Acting Deputy President, I raise a point of order. I have never defended Craig Thomson in my life. The member should withdraw.

The ACTING DEPUTY PRESIDENT: There is no point of order.

Senator FIERRAVANTI-WELLS: Throughout the whole sad and sorry saga, the ALP promoted, protected and endorsed the individual who represented, in my view, one of the worst features of union boss rorts and Labor lies.

When you look at the history that we saw emerging as a consequence of the Craig Thomson affair, the betrayal of honest union members, it began—

Senator Cameron: What were all those brown paper bags in Newcastle?

Senator FIERRAVANTI-WELLS: Mr Acting Deputy President, through you to Senator Cameron: it began with Coastal Voice. I have spent many, many hours in this chamber disclosing issues pertinent to the activities of the former member for Dobell. But these allegations were around in 2009. They were around earlier than that. So what did Labor do?
They re-endorsed Mr Thomson as their candidate in 2010. The whispers were out there, and they have emerged as a consequence of the investigations into his activities.

When there was an opportunity to condemn Mr Thomson's behaviour, those opposite and their Greens alliance partners voted against the motion. Indeed, the former Prime Minister, Ms Gillard, told us that she looked forward to the member the Dobell being there for a very, very, very long time to come. Of course, the now Leader of the Opposition, Mr Bill Shorten, turned around and told us that he believed him. He believed him!

Of course, the Labor Party forked out a lot of money. I have made comments in this place in relation to the initial quarter of a million dollars that was allegedly paid by the New South Wales ALP to assist Mr Thomson with his legal fees. We then heard further allegations in relation to the then New South Wales ALP secretary, now Senator Dastyari, spending $350,000 of ALP money helping to keep Mr Thomson in parliament.

Despite this sordid saga and all the implications that come with it, those opposite still persist in not wishing to see this legislation passed. Why? Because there is an obligation on those opposite to protect their union mates, the union crooks. I call on those opposite: you protect those decent members of the union movement who need protection from the Williamsonsons and from the Thomsons, so why don't you get on board and support us in this legislation?

The ACTING DEPUTY PRESIDENT (Senator O'Neill): Senator Fierravanti-Wells, will you make your remarks through the chair, please.

Senator FIERRAVANTI-WELLS: Thank you. This legislation is about protecting the most vulnerable workers by legislating accountability and transparency for the union hacks who have gotten their way with criminal activity for far too long. The workers of Australia need to be protected from the excesses of the union movement. Regrettably, this is happening too many times and too often. We believe that this legislation will protect the union movement from the other Craig Thomsons and the other Michael Williamsonsons out there.

Some we already know, and I have mentioned those. Others have been revealed in the recently released report of the Royal Commission into Trade Union Governance and Corruption inquiry. We already know that the interim report makes adverse comments and criticisms about officials of various unions and the operation of a number of slush funds and other entities. I want to refer to a number of the unions mentioned. Senator Abetz in a media release dated 19 December 2014 refers to the two volumes of the interim report of the royal commission into trade union governance that were tabled—and of course the third, confidential volume, which deals with the serious criminal matters, which could not be publicly released because of 'serious risks to the safety of certain individuals referred to in this volume'.

The royal commission made a significant number of recommendations, including that the Commonwealth Director of Public Prosecutions 'consider criminal charges against a range of CFMEU officials in relation to various acts of intimidation and coercion', that ASIC 'consider charges against the Queensland state secretary of the CFMEU', that the DPP 'consider criminal charges against a range of HSU officials'—and the list goes on.

The royal commission's comments in relation to the confidential volume certainly have to raise alarm bells. They are of huge, grave concern. To say that evidence could not be publicly
released because of 'serious threats made to certain witnesses and their families' reveals, as the royal commissioner correctly stated, 'grave threats to the power and authority of the Australian state'. We know that the police are pursuing these matters.

The interim report also makes adverse comments and criticisms about certain officials and a number of other slush funds: the TWU, the AWU, the HSU, the CFMEU—and the list goes on. The interim report also identifies the five key areas of concern about the current use and operation of union election slush funds: how they operate in secret, how they are characterised by deficient or nonexisting record-keeping, other contributions to them may not be voluntary, how they give a disproportionate advantage to incumbents—

Senator Cameron interjecting—

Senator FIERRAVANTI-WELLS: Sorry, Senator—through you, Madam Chair—are you threatening? Senator Cameron, would you like to repeat that for the record?

The ACTING DEPUTY PRESIDENT: Senator Fierravanti-Wells, is there a point of order that you want to make?

Senator FIERRAVANTI-WELLS: Senator Cameron made certain comments, which I did not quite hear. I hope that was not a threat. I am asking him to clarify.

The ACTING DEPUTY PRESIDENT: I am sure that it was not. I did not hear a threat. Please continue your remarks.

Senator Cameron: Madam Acting Deputy President, on the point of order: what I did indicate, if there is any uncertainty, was that there should be a royal commission into the Liberal Party slush funds as well.

The ACTING DEPUTY PRESIDENT: Thank you, that is what I did hear. Senator Fierravanti-Wells.

Senator FIERRAVANTI-WELLS: Anyone reading that interim report cannot be in any doubt about why there is a need to look at governance in the union movement and in other registered organisations through the introduction of a registered organisations commission. Goodness only knows what is in that confidential volume dealing with serious criminal matters, which, as I have indicated, will not be released for fear of safety to certain witnesses and their families.

The section of the report which deals with the CFMEU concluded that there is a 'culture of wilful defiance of the law which appears to lie at the core of the CFMEU'. The report further confirms the pressing need for the legislation to counter the thuggery and lawlessness in the construction industry. In relation to the CFMEU, as I indicated, the royal commissioner referred to the spread of the culture of unlawfulness in the building and construction industry and to what he said was a 'culture of wilful defiance of the law which appears to lie at the core of the CFMEU'. These are the reasons that establishing a registered organisations commission has been listed for debate as a matter of priority in the first Senate sitting week of 2015. It is why we need this commission. This bad conduct has to be curbed.

The good news is that in this act we will establish an independent watchdog—the registered organisations commission—which will monitor and regulate registered organisations with enhanced investigation and information-gathering powers. This act will amend the requirements on officers' disclosure of material, personal interests and related
voting and decision-making rights and will change grounds for disqualification and ineligibility for office. It will also strengthen existing financial accounting, disclosure and transparency obligations under the registered organisations act by putting certain rule obligations on the face of the registered organisations act and making them enforceable as civil remedy provisions. Finally, it increases civil penalties and introduces a criminal offence for serious breaches of officers' duties as well as new offences in relation to the conduct of investigations under the act. The registered organisations commission, when established, would have an important education function to assist registered organisations and their officials to understand and to work with these laws. To be clear, officials and registered organisations will be able to get advice and assistance to help them in their duties and to understand the framework. The passage of the bill will mean that the commission will be there to help and assist, but of course, if there is illegality or continued and deliberate noncompliance with the laws, the commission will have the powers available to take prosecutions and to allow the courts to decide on penalties.

In addition, we are about marrying the situation in relation to companies and unions. In short, we want to make sure that the penalty regime for ripping off shareholders is the same as for ripping off members of the unions. Why should unions be deserving of less rigor in terms of penalties? The impact on some of Australia's most hardworking workers can be just as dreadful as on shareholders. However, it should be understood that the penalties are not mandated in the bill. Whilst legislation can prescribe maximum penalties, the ultimate penalty will be always at the discretion of the court. It is, however, fair to say that the penalties are potentially heavy to send a clear message. Thuggery and slush funds are not beyond the full rigor of the law. This bill if passed will still, consistent with longstanding practice, grant the courts the ability to determine the actual penalty within the context delivered in this legislation. The seriousness test encompassed in this bill would again be left for a court of law to pass judgement on within the framework of the legislation.

Members have expressed concerns about this legislation. The only individuals who should have anything to be mildly concerned about in relation to this bill are those who are found by a court of law to have acted corruptly. I for one have absolutely no problem seeing justice brought down on those involved in criminal activity. A registered organisations commissioner will be able to support officials. Training, fact sheets and consistent information will aid in the understanding of the requirements set out in this legislation. It is only rogue officials who will have anything to fear. I look forward to seeing these individuals watched and monitored in a way that protects the many hardworking and diligent individuals who contribute their wages to supporting registered organisations that they are part of. Why are Labor and their Green alliance partners not wholly supportive of this legislation? As I indicated earlier, one only has to look at the returns from the Australian Electoral Commission to have the answer to that. Those opposite and their Green alliance partners are heavily conflicted in this matter. Of course, we saw it recently in Victoria when the newly-elected Premier, who is wedded to his union mates, introduced legislation to repeal police move-on laws. This has gone on for too long. It is time that the rorts were brought to an end. (Time expired)

Senator URQUHART (Tasmania—Deputy Opposition Whip in the Senate) (13:45): I rise to speak in this debate on the Fair Work (Registered Organisations) Amendment Bill 2014. Well how far we have come and how little has changed! The government still persists
with its agenda of shackling unions, making it difficult for people to secure representation and attacking working conditions for millions of Australians. In March 2013 I spoke in this place against a private senator's bill from Senator Abetz that was not too dissimilar to the one in front of us today. In that speech I emphasised Labor's belief that officers of registered organisations or anyone in a position of trust who misuses the funds of members, who acts inappropriately or who takes benefits that they are not entitled to must never be condoned.

Less than a year later, in May 2014, I spoke again to address a government bill that continued on the same failed lines as Senator Abetz's doomed private senator's bill. We all know that this bill was also rejected. It did not have the support of registered organisations, it did not have the support of industry groups and, unsurprisingly, it failed to gain the support of the Senate. Yet here we are again today looking at another slightly mutated clone that Labor still cannot support.

Government members continue to bring up the HSU case as evidence that there is something fundamentally, systematically wrong with how registered organisations operate in this country and the laws surrounding them. Ironically, it is this very case that illustrates that the system is working. In this case the Fair Work Commission collected evidence and the courts gave their verdict. Due process was used to carefully consider the evidence, a decision was made and punishment was meted out appropriately. The system worked as it should have. Nothing in this bill before us today would stop people committing fraud, despite what those opposite continue to assert.

As I mentioned earlier, Labor support appropriate regulation for registered organisations, including a properly empowered regulator and consequences for those who do not follow the rules. We are committed to ensuring that unions and employer organisations are accountable, but that is not what this bill is about. This legislation is clearly little more than a spiteful witch-hunt and simply another way to weaken the rights of working people and their unions. Twice now we have seen so little support for the government's plan to weaken registered organisations and twice we have seen condemnation of this policy, yet here we are with a bill with the same intentions as the two that preceded it to weaken unions.

Even with the proposed amendments there are still significant concerns with the bill. It still exceeds penalties in the Corporations Act 2001 and in doing so breaks a fundamental promise that the government made to the Australian people before the election. The government promised to regulate registered organisations in the same way as corporations. This bill does not do that. The reality is that this government is so blinded by its anti-union agenda it has been unable to recognise that this is a fundamentally flawed policy. It is a policy that will not strengthen the system.

When the predecessor of this bill went before the Senate Education and Employment Legislation Committee it became clear how flawed it was. It was criticised by employer groups and trade unions alike, something that does not happen too often. The Australian Nursing & Midwifery Federation pointed out that the bill:

... is unnecessary, poorly structured and excessive, particularly when the Parliament in 2012 enacted the Fair Work (Registered Organisations) Amendment Act 2012 that largely and adequately dealt with the same issues by introducing enhanced reporting and financial management standards.

Similarly the Ai Group said:
The Bill would impose a far more onerous regime for officers of registered organisations than what applies to directors of public companies.

It became clear that the bill presented an ineffective solution to an ill-defined problem that actually flew in the face of the government's own promise of red tape reduction.

Today I stand before you as a former state secretary of a trade union—the Tasmanian branch of the AMWU. I am proud to put that on the record—my experience as a union member, an organiser and a secretary. I do so with the benefit of firsthand experience of how unions deliver real outcomes for working Australians. There is no doubt that registered organisations play a fundamental role in Australia’s workplace relations system. They are created and registered for the purpose of representing Australian employers and employees at work. They are a fundamental mechanism to ensure that our workplace relations system strikes a fair balance between the rights of workers and the interests of their employers.

As I said earlier, there is no doubt that the bill before us today has nothing to do with strengthening union governance, despite what Senator Abetz has asserted. Those opposite love nothing more than to demonise and demean unions and those who support them. They like to use emotionally laden terms like 'union thugs' and 'heavies' to demean union workers and smear the reputations of the vast majority of honest, hardworking union representatives. What they do not want people to know is how strong the current regulations for registered organisations already are.

The truth is that the registered organisations act already allows for criminal proceedings to be initiated where funds are stolen or are obtained by fraud. It already ensures that the Fair Work Commission can share information with the police as appropriate. Not only that but the same act already provides for statutory civil penalties where a party knowingly or recklessly convenes an order or direction made by the Federal Court or the Fair Work Commission under the registered organisations act or the Fair Work Act.

Under the Fair Work Act officers of registered organisations already have fiduciary duties similar to those for directors under the Corporations Law. The registered organisations act already requires officers to disclose their personal interests. The registered organisations act already requires officers to disclose when payments are made to related parties. The registered organisations act already requires officers to exercise care and diligence, act with good faith and not improperly use their position for a political advantage.

Clearly, this bill is not about better governance and accountability, as we already have that, and self-evidently it is not about fixing a broken system. The sole purpose of this bill is to hit registered organisations hard and to make it highly unappealing for honest volunteers to play their part in the governance of their union or their organisation for the betterment of its members. This bill would make volunteering on the board of a union or employer organisation such a risky proposition that registered organisations would find it hard to fill these positions. It sets out to remove the necessary ingredient for effective functioning of volunteer organisations—that is, their volunteers. This bill wants to use the improper and fraudulent actions of one or two officials to fundamentally weaken all trade unions into the future.

On this side, we believe in fairness in employment and in industrial relations. We believe in an appropriate balance that helps business to be profitable and productive, while ensuring a fair day's pay for a fair day's work. When Labor was in government it delivered positive
reforms—not penalise over two million Australians and their families—because it wanted to unite and negotiate collectively for reasonable conditions. In fact, in 2012, the then Leader of the Opposition, Mr Bill Shorten, as minister, strengthened the laws to increase financial transparency and disclosure by registered organisations to their members. As a result, today, we have regulation of trade unions that has never been stronger, accountability that has never been higher and the powers of the Fair Work Commission to investigate and prosecute for breaches that have never been broader. Not only that, Labor tripled the penalties for breaches, which means they have never been tougher.

When I spoke on this bill last year, I talked about the importance of a union and the importance of acceptance of unions for some female workers in a George Town factory, in my home state of Tasmania, a number of years ago. It is a story that shows how important unions are in providing a voice for working Australians; it is a story that highlights the need for representation when there is a power imbalance in the workplace, a toxic culture or an unscrupulous employer; and it is a story that is just as relevant today. I will share it again for those who were not here listening.

It was a small fishery and processing facility. I, as a union organiser, was asked by some of the staff to visit and talk with the workers. When we approached management they were helpful. They invited us in, gathered the workers in the lunch room and made us feel welcome. The workers at the processing facility were mainly women, all of them casually employed. The few men in the workplace were all permanent. With permanency came security, but it also bred an attitude of superiority. We spoke to the staff about joining the union and people seemed positive. We left some information and told them we would come back the next week. We thought we had had a good hearing and that we would be able to offer support to the workers.

Unfortunately—and many people listening will know where this story is going—when we left, the boss got everyone together in the lunch room and said that if they joined the union they would lose their jobs. Two women, who were silent members of the union, called and told us what had happened. They were worried for their jobs. A week later, we went back to the factory and talked to the people again. This time, publicly, no-one was interested. However, the silent members called again and arranged for us to meet with a group of workers.

We met with the women at one of their houses. They told us what had been going on in their workplace: bad behaviour toward the female workers by the men. Some acts might have been perceived as harmless by some, but many other acts a reasonable person would frame as assault and dangerous. The workers would hose down the facilities at the end of the day. One day one of the men was cleaning down in his underwear. He repeatedly turned the hose on the women, who were just going about their jobs, spraying them with a high-powered hose. It was harassment; it could be viewed as assault; it was certainly dangerous.

There were other cases where some of the men would force themselves into a bathroom cubicle in the unisex toilets while one of the women was in there. It was clearly designed to intimidate the female workers. One day, it got out of hand. One of the men forced his way into the cubicle. The woman was able to fight him off, but she was left with visible bruising on her arms. She told me that she spoke to her husband when she got home that night, who
was at first angry and wanted the man to be punished. His second reaction was, 'But you have to go to work tomorrow because we need the money.'

This woman, this family and all of these workers had no choice but to put up with the behaviour. We asked them, 'Why didn't you raise these matters with the supervisor?' They replied, 'We couldn't. He was one of the men involved.' They had no recourse on their own, but they wanted to join the union. They wanted to join the union so that together they could make a change at their workplace. So we set up a picket outside the factory. We went to the Industrial Relations Commission, where we were able to run an argument for these women and lay down the facts.

The commissioner found that there was clear evidence that the workers wanted to join a union, that they had been discriminated against and that they should be protected. The commissioner enforced a code of conduct for the factory management and gave the female workers, in particular, comfort that there were avenues for recourse if they needed to go down that path in the future.

Clearly, many staff at this George Town workplace were not able to walk into their boss's office, raise issues of concern and receive a fair hearing. Sadly, this is still the case in so many workplaces today. Unions give workers the means to join together to give themselves some bargaining power in circumstances where there are serious power imbalances. If there had been a union at this factory providing a mechanism for the workers to raise issues and to be listened to fairly, these issues may not have happened at all.

What will this bill do for people like those factory workers in George Town? It will do nothing. It is not designed to help them. In fact, it is designed to disempower working Australians and make it harder for unions to provide assistance. As with so many of the policies of those opposite, it is the most vulnerable who will suffer. It is those whose employment is the least secure, it is those who have limited opportunities in a tough marketplace and it is those whose jobs could be at risk if they spoke out on their own.

I repeat: this bill will not help these people. When those opposite speak in favour of this bill, they ignore these stories, these real-life stories of working Australians. Despite their empty rhetoric, the Liberal government does not seek a middle ground—their so-called sensible centre. No, they seek to rid the country of unions as a favour to their big-business friends.

As I mentioned earlier, the legislation governing registered organisations already requires officers to act with care and diligence, to act in good faith, to not improperly use their positions and to not improperly use information they have obtained through acting as a member of an organisation. (Time expired)

The PRESIDENT: It being 2pm, we proceed to questions without notice. You will be in continuation.

QUESTIONS WITHOUT NOTICE

Australian Human Rights Commission

Senator WONG (South Australia—Leader of the Opposition in the Senate) (14:00): My question is to the Attorney-General, Senator Brandis. Can the Attorney-General explain to the
Senate why the law of the Commonwealth prevents the giving or receiving of a corrupting benefit by a Commonwealth official?

**Senator BRANDIS** (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (14:00): I certainly could—I am very familiar with those provisions—but unfortunately standing orders forbid me from doing so.

**Senator WONG** (South Australia—Leader of the Opposition in the Senate) (14:00): Mr President, I ask a supplementary question. Can the Attorney-General advise the Senate why the Statement of Ministerial Standards provides that:

Ministers must not encourage or induce other public officials, including public servants, by their decisions, directions or conduct in office to breach the law …

**Senator BRANDIS** (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (14:00): I can indeed, and the reason is that the ministerial standards are an important integrity measure which was prepared by the Prime Minister and the cabinet office, and settled in part by me, to ensure that the standards of this government are considerably higher than the standards of your government, Senator Wong—a government that was characterised by serial lying to the Australian people by the former Prime Minister Ms Gillard; her predecessor and successor, Mr Rudd; and, Senator Wong, on many infamous occasions, by you.

**Senator WONG** (South Australia—Leader of the Opposition in the Senate) (14:01): Mr President, I ask a further supplementary question. Does the Attorney-General recognise that, through his conduct, he has involved the Secretary of Attorney-General's Department in a partisan attack on the President of the Human Rights Commission, brought his own office into disrepute and damaged Australia's international rights standing? Further, he has now been censured by this Senate. Will he now resign?

**Senator BRANDIS** (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (14:02): There has been no partisan attack on the President of the Human Rights Commission. I refer to what I said in my remarks to the chamber earlier today. There was, however, Senator Wong—and you, as the Leader of the Opposition in the Senate ought to take responsibility for this—a disgraceful attack on the integrity of the secretary of my department, Chris Moraitis, by your colleague Senator Jacinta Collins—a disgraceful, contemptible attack on the integrity of a respected, independent public servant.

**National Security**

**Senator BUSHBY** (Tasmania—Chief Government Whip in the Senate) (14:02): My question is to the Attorney-General, Senator Brandis. Can the Attorney-General update the Senate on further measures the government is taking to keep Australians safe from the threats of terrorism?

**Senator BRANDIS** (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (14:03): Yes, I can. Thank you, Senator Bushby. In the Prime Minister's national security statement last Monday, he announced that the government was considering listing the Mosul district of Nineveh province in Iraq as a declared area under section 119.3 of the Criminal Code. That
follows the foreign minister's declaration of Al-Raqqa province on 4 December last. Today the foreign minister has declared the area of Mosul district, making it an offence under section 119.2 of the Criminal Code to enter or remain in the Mosul district without a legitimate purpose. The offence carries a maximum penalty of 10 years imprisonment.

ISIL seized control of Mosul on 10 June 2014, at the beginning of its offensive through northern and western Iraq. Since that time, Mosul has served as ISIL's primary stronghold in northern Iraq, from which they have undertaken all manner of barbaric and hostile activities against the Iraqi people and their government, including beheadings and sexual slavery. Foreign fighters and supporters of foreign conflicts pose a significant threat to Australia and our way of life. This government is committed to doing all it can to prevent Australians from providing any support to ISIL and other terrorist organisations. That includes making it an offence to travel to strongholds of ISIL such as Mosul.

The government will continue to monitor the actions of ISIL and other terrorist groups in Syria and Iraq and will give consideration to declaring additional areas where there are groups engaging in hostile activities and where the grounds set out in the legislation warrant it.

Senator BUSHBY (Tasmania—Chief Government Whip in the Senate) (14:04): Mr President, I ask a supplementary question. Can the Attorney-General advise the Senate why it is necessary to list the Mosul district as a declared area?

Senator BRANDIS (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (14:05): Thank you, Senator Bushby. As I said in answer to the principal question, primarily because Mosul is one of the headquarters of ISIL from which many of these barbaric acts are based. Today's listing sends a strong message that the government is determined to stop Australians from travelling to that centre of terrorist activity. It will assist our law enforcement agencies bring to justice those who have committed serious offences, including associating with and fighting for terrorist organisations overseas, putting at risk not only their own lives but the lives of Syrians and Iraqis and potentially risking the lives of Australians as well.

It is important to note that the listing does not prevent people travelling to the area for legitimate purposes such as providing humanitarian aid, or bona fide visits to family members, but we are determined to use this, as all the weapons in the legal armoury, to prevent assistance to foreign fighters. *(Time expired)*

Senator BUSHBY (Tasmania—Chief Government Whip in the Senate) (14:06): Mr President, I ask a further supplementary question. Can the Attorney-General advise the Senate on the process undertaken by the government prior to listing Mosul as a declared area?

Senator BRANDIS (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (14:06): Yes, Senator Bushby, I can. As you know, there is a process which the legislation provides for. Prior to listing the Mosul district, the government actively engaged with Australia's Muslim community and our international counterparts. The foreign minister discussed the declaration of Mosul with our Iraqi counterparts, including during the Iraqi foreign minister's recent visit to Australia. We must show our support to the Iraqi government in our common fight against ISIL. We also consulted with local community groups to ensure they know we are here to
protect them from those predators who seek to recruit their young men and women to fight in foreign wars.

Finally—and Senator Bushby would be aware of this—the legislation sets out various other procedural steps that are necessary for the foreign minister to arrive at the view that she must hold before making a declaration. One of those steps is to consult the opposition, and that has been done as well.

DISTINGUISHED VISITORS

The PRESIDENT (14:07): Before I call upon the next question, could I inform honourable senators of the presence in the chamber of a parliamentary delegation from Fiji led by the Speaker, the Hon. Dr Jiko Luveni MP. On behalf of all senators, I wish you a warm welcome to Australia and particularly the Senate. With the concurrence of honourable senators, I would ask the Speaker to take a seat on the floor of the Senate.

Honourable senators: Hear, hear!

Dr Luveni was seated accordingly.

QUESTIONS WITHOUT NOTICE

Australian Human Rights Commission

Senator JACINTA COLLINS (Victoria) (14:08): My question is to the Attorney-General, Senator Brandis. Can the Attorney-General confirm that he asked the Secretary of the Attorney-General's Department to convey the offer of a specific role to the President of the Australian Human Rights Commission? Can he confirm that this offer of a specific role was conveyed to the president in Sydney on 3 February this year?

Senator BRANDIS (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (14:08): These matters were addressed by me and by the secretary of my department, Mr Moraitis, in Senate estimates last Tuesday. The account by Mr Moraitis and my account were full, thorough and accurate, and I have nothing to add to what was said on that occasion, because there is nothing more to say.

But, Senator Collins, you should reflect on your disgraceful attack upon Mr Chris Moraitis during the debate in this chamber earlier on today. Senator Collins, you have form for this. I remember, Senator Collins, that many years ago, when you and I sat on the children overboard inquiry, you engaged in a similar disgraceful attack.

Honourable senators interjecting—

The PRESIDENT: Pause the clock. Order, Senator Brandis! We will not continue until there is a bit more order.

Senator BRANDIS: You engaged in a similarly disgraceful attack on another distinguished public servant—

Honourable senators interjecting—

Senator BRANDIS: Jane Halton, now the Secretary of the Department of Finance.

The PRESIDENT: Senator Brandis—

Senator BRANDIS: It seems, Senator Collins, you cannot help yourself. It is all very well—
The PRESIDENT: Senator Brandis, there has been a—
Honourable senators interjecting—

The PRESIDENT: Order! Senator Moore, you have a point of order.

Senator Moore: Mr President, I should not have to do this, but it is for the Attorney-General to direct his comments through you and not directly across the chamber at Senator Collins.

The PRESIDENT: Thank you, Senator Moore. I remind all senators of the need to address their remarks to the chair.

Senator BRANDIS: Quite right, Senator Moore—quite right. Mr President, it is one thing for the opposition to attack political opponents. That is fair game. But what Senator Collins descended to this morning in the debate in this chamber was an attack on the integrity—

Opposition senators interjecting—

The PRESIDENT: On my left!

Senator BRANDIS: Gillian Triggs is not a public servant. Gillian Triggs is not a public servant, and her integrity has never been attacked by anyone.

The PRESIDENT: Pause the clock. Senator Brandis—

Honourable senators interjecting—

The PRESIDENT: Order, Senator Conroy! A point of order, Senator Moore?

Senator Moore: Again, Mr President, through you rather than across the chamber—this time to an interjection.

The PRESIDENT: Well, he did not directly talk not through the chair or to the chair that time. Senator Brandis, you have the call.

Senator Ronaldson: You got two out of two, Claire!

Senator BRANDIS: One and a half, Senator Ronaldson—one and a half. I do like to make eye contact, but nevertheless, Senator Parry, I will focus myself entirely on you. It is one thing, Mr President, for there to be spirited criticism and political attacks on a political opponent, as I suffered this morning. That is fine. That is the way this process works. But senior public servants doing their job ought not to be the subject of the kind of despicable character assassination we saw on Mr Moraitis and, in years gone by, Ms Halton by Senator Collins.

Senator JACINTA COLLINS (Victoria) (14:11): Mr President, I ask a supplementary question. It was your mission, Attorney—your mission.

The PRESIDENT: To the chair, Senator Collins.

Senator JACINTA COLLINS: Thank you, Mr President. Why, I ask the Attorney, was a specific role offered to the President of the Australian Human Rights Commission?

Senator BRANDIS (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (14:12): I do not have my transcript here. I did before, and if I had it here I would read to you precisely what I said last Tuesday when I addressed that issue specifically, to which I have nothing to add.
Senator JACINTA COLLINS (Victoria) (14:12): Mr President, I ask a further supplementary question. I refer to the evidence of the President of the Australian Human Rights Commission that a request for her resignation was 'very clearly linked' to the offer of another role. Why did the Attorney-General arrange for an inducement to be offered to procure the resignation of the President of the Australian Human Rights Commission?

The PRESIDENT: Just before I call the Attorney-General, Senator Collins, you are really impugning the Attorney-General with the way you framed that question. You were suggesting that the Attorney-General has induced someone. You cannot do that, Senator Collins, so can I ask that you rephrase that question, and then I will allow the question.

Senator JACINTA COLLINS: I will rephrase the question: why did the Attorney-General arrange for what can be regarded as an inducement to be offered to procure the resignation of the President of the Australian Human Rights Commission? I note it has been regarded as such other than by me or Senator Wong; many others have.

Government senators interjecting—

The PRESIDENT: Order on my right! Senator Collins, you have removed the direct implication. I will call the Attorney-General.

Senator BRANDIS (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (14:13): Thank you, Mr President. The evidence before the Senate estimates committee was unequivocal: Mr Moraitis gave uncontradicted evidence that no inducement was offered, I gave uncontradicted evidence that no inducement was authorised, and Professor Triggs did not suggest that an inducement had been offered to her.

Asylum Seekers

Senator BACK (Western Australia) (14:14): My question is to the Assistant Minister for Immigration and Border Protection, Senator Cash. I ask: will the minister advise the Senate of the importance of strong and consistent policies on border protection?

Senator CASH (Western Australia—Assistant Minister for Immigration and Border Protection and Minister Assisting the Prime Minister for Women) (14:14): I thank Senator Back for his question and for his ongoing interest in the government's policies that have been stopping the boats. I think it is very, very clear that, when you have strong and consistent border protection policies, you can stop the boats. When you have strong and consistent border protection policies, you send a very, very clear message to the people smugglers that, under this government, they do not have a policy to sell.

This government has been able to implement its strong and consistent border protection policies despite the protestations from those opposite that its policies would never work. The evidence is clear: we have delivered on the promise that we made to the Australian people prior to the 2013 election. We said to them: if you elect us to office, we will implement strong border protection policies and we will stop the boats—and that is exactly what we have done.

The importance of the government's strong border protection policies is evidenced in so many ways, not least of which, of course, is this one statistic: 1,992. For those who do not recall what that statistic is, quite frankly, shame on you on the other side because that is the number of children in the detention network under the former government when it peaked in 2013. Of course, we cannot forget that, under those opposite, a total of 8,469 children arrived
on leaky boats as a result of the former government's failure in relation to our borders. We on this side understand strong border protection policies stop the boats.

Senator BACK (Western Australia) (14:16): Mr President, I ask a supplementary question. Can the minister advise the Senate of the effect of strong and consistent border protection policies on the budget?

Senator CASH (Western Australia—Assistant Minister for Immigration and Border Protection and Minister Assisting the Prime Minister for Women) (14:16): Yes, I can. Under this government, in the 2014 budget, we announced savings of $283.3 million over four years. How were those savings achieved? Again, by implementing our strong and consistent border protection policies. Compare that to the record of those on the other side. Under Labor and the Greens, the budget for managing illegal boat arrivals blew out by just under $12 billion.

The PRESIDENT: Pause the clock.

Senator Whish-Wilson: I have a point of order, Mr President. I would like to seek direction from you. Senator Cash continues to use the word 'illegal' when it is not illegal to seek asylum.

The PRESIDENT: That is no point of order, Senator Whish-Wilson; that is a debating point.

Senator CASH: Clearly, Senator Whish-Wilson does not like the truth, and the truth of the matter is that the policies that Senator Whish-Wilson and the Australian Greens supported and continue—

The PRESIDENT: Pause the clock.

Senator Di Natale: Mr President, I rise on a point of order. At the start of today's proceedings, you made a statement about the use of language in this parliament. We have just heard the minister state that Senator Whish-Wilson 'does not like the truth' and she has gone on to use what is, in point in law, incorrect. The term 'illegal' has no validity.

The PRESIDENT: There is no point of order at all, Senator Di Natale. The context in which Senator Cash has used her terminology does not infringe the standing orders. In relation to your second point, that is a debating point about terminology.

Senator CASH: I have to say, in relation to cost blow-outs, when it comes to the Greens there is one tree they like to cut down, and that is the money tree—$11.6 billion in budget blow-outs because the money tree that the Greens were using ran out of money. (Time expired)

Senator BACK (Western Australia) (14:19): Mr President, I ask a further supplementary question. Will the minister inform the Senate of the benefits to Australia's humanitarian immigration program when the government is able to regain control of Australia's borders?

Senator CASH (Western Australia—Assistant Minister for Immigration and Border Protection and Minister Assisting the Prime Minister for Women) (14:19): In stopping the boats and in reintroducing strong and effective border protection policies, this government has managed to not only save the taxpayer money and get the children out of detention but also stop those dying at sea. Under Labor and the Greens, in excess of 1,200 people died at sea, making that perilous journey to Australia. We have also managed to increase the humanitarian intake to 18,750 places over the course of the next four years. We have also managed to
quarantine each year no fewer than 1,000 places in our humanitarian settlement program for women at risk, who are recognised globally as the most in-need group of refugees. But what we have also done is that we have returned fairness to the system, and we have put at the front of the queue those people who languish in camps for decades at a time.

**Australian Human Rights Commission**

Senator WRIGHT (South Australia) (14:20): My question is to the Attorney-General, Senator Brandis, regarding the President of the Human Rights Commission. I note the testimony of the Secretary of the Attorney-General's Department, Mr Moraitis, who told Senate estimates that he was asked by the minister to:

… formally put on the table or mention that there would be a senior legal role, a specific senior role, that her skills could be used for—

which the president could not accept without resigning her current position. When will the minister stop saying, 'Gillian Triggs's resignation was never sought,' and admit he placed unprecedented and unwarranted pressure on an independent office holder to resign?

Senator BRANDIS (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (14:21): I do not mean any discourtesy, Senator Wright, but I will have to look at the President in answering this question. Through you, Mr President—Senator Wright, I was not a party to that conversation. There were two parties to that conversation: Mr Moraitis and Professor Triggs. Mr Moraitis's evidence about that conversation was unequivocal—that he did not ask for Professor Triggs's resignation—and I believe Mr Moraitis. I believe Mr Moraitis and I accept everything he said in his evidence.

In relation to the balance of Senator Wright's question: Senator Wright, I have said on the four occasions now on which I have publicly addressed this issue—on Sky Agenda on 1 February, in Senate estimates last Tuesday, in *The Australian* newspaper in an op-ed column on Friday and in the debate on the motion this morning in the Senate—and I say it again, that I have a great deal of respect for Professor Triggs as an international lawyer. I am unlike others—I am actually familiar with her reputation as an international lawyer. I actually studied her scholarly works, so I know what her reputation is.

It is absolutely not to the point that I may have a high regard for Professor Triggs as an international lawyer whether or not her discharge of the role of President of the Australian Human Rights Commission was tainted by partisanship or, at least, the impression of partisanship, as a result of her decision on the timing of the report. *(Time expired)*

Senator WRIGHT (South Australia) (14:23): Mr President, I ask a supplementary question. The Attorney-General has justified this unprecedented attack on the president on the basis that the government has lost confidence in the president of the Human Rights Commission. If losing the confidence of the Liberal Party is grounds for resignation, can I ask the Attorney-General and, indeed, the Prime Minister what they are still doing in their jobs?

Senator Ian Macdonald: What a stupid question!

Senator Ronaldson: What have you done for yourself?

Senator Kim Carr: Come on, Lord Brandis! Tell us all about it!
The PRESIDENT: Order! On my left and on my right! Attorney-General, the question is not completely in order. I invite you to address any portion of the question that you may or may not wish to answer.

Senator BRANDIS (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (14:24): I would be delighted to, Mr President.

Senator Wright, really and truly—I thought you were a little bit better than asking questions that are so glib and trivial they could have come from Senator Conroy. The fact is, Senator Wright, that I am sorry to say the government has lost confidence in Professor Gillian Triggs as President of the Australian Human Rights Commission. It is absolutely essential that the Human Rights Commission and all of its officers command the confidence of both sides of politics—the opposition and the government. In particular, for the very reason bizarrely explained by Senator Moore in her contribution this morning—because the Human Rights Commission on occasion has to criticise the government of the day. And the only way in which the Human Rights Commission can be credible when it embarks on a task like that is to be seen, like Caesar's wife, to be beyond blemish—in this case, beyond political blemish.

Senator WRIGHT (South Australia) (14:25): Mr President, I ask a further supplementary question. Given the Attorney-General's disgraceful attack on an independent office holder and the embarrassment this has clearly caused to the government, will the minister be induced to accept a specific role on the backbench in the event of a successful leadership challenge against the Prime Minister?

Senator Ian Macdonald: That's not an allowable question!

Senator Payne: How is that in order?

The PRESIDENT: Order on my right! Senator Wright, again, I will invite the Attorney-General to address any part of that question that he wishes to.

Senator BRANDIS (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (14:26): Senator Wright, you have changed. You used to be a serious person—I am sorry about that!

The fact is that on no occasion have I personally attacked the president of the Human Rights Commission. And if you make that allegation, Senator Wright, I invite you to identify a single statement I have made in which I have attacked the president of the Human Rights Commission. To say that the government has lost confidence in the reputation for political impartiality of the statutory head of an agency is not a personal attack; it is something that a government or, indeed, any member of the Senate—and a conclusion that a government or, indeed, any member of the Senate—in an appropriate case, is entitled to arrive at. And if that person happens to be the minister, the minister has an obligation to be honest with the public about the fact that that is their conclusion and the reasons for it. That is what I have sought to do.

Dementia and Severe Behaviours Supplement

Senator SMITH (Western Australia) (14:27): My question is to the Assistant Minister for Social Services, Senator Fifield. Can the minister advise the Senate what alternative program has been developed to replace the Dementia and Severe Behaviours Supplement?
Senator FIFIELD (Victoria—Manager of Government Business in the Senate and Assistant Minister for Social Services) (14:27): I thank Senator Smith for his question and for his deep interest in issues of ageing and aged care.

Mr President, you and colleagues may recall that last year I was forced to cease the Dementia and Severe Behaviours Supplement, which it would be fair to say was less than well designed by those opposite. The design premise of those opposite was that only 2,000 people would trigger provider eligibility for that supplement. In reality it ended up being 33,000 people who triggered provider eligibility, and rather than costing $11.7 million as budgeted it cost $135 million; and if the existing claiming patterns had continued, rather than costing $52 million over the forward estimates it would have cost $780 million and, indeed, $1.5 billion over 10 years.

At the time that I concluded that supplement I indicated that the government was determined to put in its place an alternative within the existing funding envelope over the forward estimates of about $52 million. I am very pleased, Mr President, to let you and colleagues know that as a result of consultation with the sector the government has announced that we will invest $54.5 million over four years to establish severe behaviour response teams. These teams will be a mobile workforce of clinical experts who will provide timely and expert advice to residential aged care providers that seek help to address the needs of people who manifest the most severe behaviours associated with dementia.

Senator SMITH (Western Australia) (14:29): Mr President, I ask a supplementary question. Can the minister explain to the Senate how these response teams will provide targeted assistance to aged-care providers who take care of residents experiencing severe behaviours associated with dementia?

Senator FIFIELD (Victoria—Manager of Government Business in the Senate and Assistant Minister for Social Services) (14:29): The severe behaviour response teams will, as I mentioned, be comprised of clinical experts trained to work with people who exhibit severe behaviours. They will be a mobile workforce. The teams will commence operations nationally later this year following a competitive tender process. The establishment of these response teams is on a specific recommendation made by the sector to the government through the ministerial dementia forum, which I convened in September last year. That forum brought together more than 60 stakeholders and experts to advise the government on how to encourage better practice dementia care and how to better support people who demonstrate these severe behaviours. The intent of these response teams will be that providers can get support within 24 to 48 hours, and I also think it is very important that we make sure these response teams also work for regional Australia.

Senator SMITH (Western Australia) (14:30): Mr President, I ask a further supplementary question. Can the minister advise the Senate of any support from key aged-care stakeholders of the initiative?

Senator FIFIELD (Victoria—Manager of Government Business in the Senate and Assistant Minister for Social Services) (14:31): Yes I can. For instance, Lin Hatfield Dodds from UnitingCare said, 'The government's announcement is very good news': Additional support to assist residential care providers in meeting this challenge is most welcome. The Government has clearly heard and understood the concerns raised at the Dementia Forum. We are pleased that the Government has worked with the aged-care sector to find solutions …
Also, Mr Graeme Samuel, President of Alzheimer's Australia, said:
Announcements of this kind provide much needed national leadership in tackling dementia.
Finally, Dr Stephen Judd of HammondCare said:
HammondCare welcomes the release of additional funds to deploy mobile teams of clinical experts supporting the care of aged care residents experiencing severe behavioural and psychological symptoms of dementia.
I indicated at Senate estimates to Senator Polley that I would be very happy to arrange a more detailed briefing for her on these response teams, and I extend that invitation to any other colleagues who are interested.

Iraq and Syria

Senator MILNE (Tasmania—Leader of the Australian Greens) (14:32): My question is to Senator Abetz, the Minister representing the Prime Minister. Will the minister confirm that Prime Minister Abbott has the power to deploy 3½ thousand Australian troops to unilaterally invade Iraq if he chose to do so and would be able to do so with no reference to the parliament? If so, when is the government going to concede that, especially with the current Prime Minister, this is dangerous and that such decisions as important as deploying troops to war should be brought to the parliament?

Senator ABETZ (Tasmania—Leader of the Government in the Senate, Minister Assisting the Prime Minister for the Public Service and Minister for Employment) (14:32): The question by the Leader of the Australian Greens is, of course, absolutely hypothetical. There is no basis to it whatsoever. The CDF and other high military officials have completely and utterly debunked the nonsense that was peddled in the media in relation to that, and indeed the journalist that first wrote the story has somewhat backpedalled from his initial assertions. So, given all that passage of time and that evidence, for the Leader of the Australian Greens to come in here and somehow give that assertion some credibility does her no credit whatsoever.

I can confirm to the Senate that no such proposal was on the table or is on the table; and, as a result, the question is hypothetical.

Senator MILNE (Tasmania—Leader of the Australian Greens) (14:33): Mr President, I ask a supplementary question. I did ask whether the Prime Minister has that power and when you are going to concede that it should come to the parliament, but I ask now: why did the Prime Minister allow the New Zealand prime minister to announce the latest deployment of Australian troops to Iraq when he announced the joint Australia-New Zealand force with 143 New Zealanders? Why didn't he announce it at home rather than allowing it to be announced in New Zealand?

Senator ABETZ (Tasmania—Leader of the Government in the Senate, Minister Assisting the Prime Minister for the Public Service and Minister for Employment) (14:34): I think the honourable senator herself knows that the suggestion that the Prime Minister allowed the Prime Minister of New Zealand to make the announcement is stretching credulity somewhat far. The good news is that Australia and New Zealand do have a close relationship from many years back. We do enjoy a close relationship; may that long continue. But, in relation to the particular announcement made by the New Zealand prime minister: it occurred. But, above and beyond that, with whose authority I am not going to make any comment.
Senator MILNE (Tasmania—Leader of the Australian Greens) (14:35): Mr President, I ask a further supplementary question. I thank the minister for conceding that the announcement was made. So how many additional Australian troops are going to be deployed to Iraq, when and for how long? Is it two or three years or more? Will they be engaged in combat? What will that make the total of Australian troops deployed in Iraq?

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): Let's just get absolutely clear what we are talking about here. There are some leaders in the world and peoples in the world that are prepared to make the necessary decisions to stop the barbarity and evil that is taking place in Iraq as we speak—beheadings as we speak, people sold into sexual servitude and slavery, and Senator Milne quibbles about whether or not Australia might support the international effort to help excise this evil out of Iraq. I find the double standards of the Australian Greens absolutely horrific in this regard. I just cannot believe that Senator Milne would quibble about whether it might be 100 or 200; whatever number may be and in whatever circumstance, surely she has the good grace to support the fight against the evil that is in Iraq. (Time expired)

Cyclones

Senator CANAVAN (Queensland) (14:36): My question is to the Minister for Human Services, Senator Payne. Can the minister outline to the Senate how the Australian government is helping Australians in the Northern Territory and Queensland respond to Cyclone Lam and Cyclone Marcia?

Senator PAYNE (New South Wales—Minister for Human Services) (14:37): I thank Senator Canavan for the question. As senators will know, both Tropical Cyclone Marcia and Tropical Cyclone Lam had devastating impacts on families and businesses; in the case of Cyclone Marcia, in parts of Central Queensland. Thankfully there was no loss of life.

On Thursday and Friday of last week the Prime Minister, the justice minister, I, Senator Canavan and the members for Capricornia and Flynn visited both Yeppoon and Rockhampton—and, in my case, Biloela as well—to see the recovery effort and meet with families who really are still trying to get back on their feet. The Australian government is providing extensive assistance to the people of the Fitzroy and Wide Bay-Burnett areas in the form of both the disaster recovery payment and the disaster recovery allowance. The DRP is a one-off, non-means-tested payment of $1,000 for eligible adults and $400 for eligible children who have been adversely affected by a major disaster such as Tropical Cyclone Marcia.

The Commonwealth's decision to make disaster recovery payments available to the residents of Fitzroy as soon as we could after the cyclone was of great benefit to those affected. The DRA is going to support the local economy by giving employees, small business owners and farmers a bit of a hand when they need it most. This is assistance which is over and above the jointly Commonwealth and Queensland funded Natural Disaster Relief and Recovery Arrangements, the NDRRA. That sort of assistance covers hardship payments to individuals, loans for businesses and primary producers, and support for councils to assist them in rebuilding impacted infrastructure.

The clean-up effort is still underway; and there is some way to go, to be honest. The ADF, the Attorney-General's Department and my own Department of Human Services have worked
tirelessly since the cyclone in Queensland to support communities affected by those recent cyclones, and we will continue to work closely with the Queensland government. *(Time expired)*

**Senator CANAVAN** (Queensland) (14:39): Mr President, I ask a supplementary question. Will the minister detail how the Australian government is making sure Australians can access the support available to them?

**Senator PAYNE** (New South Wales—Minister for Human Services) (14:39): In terms of access I am really quite pleased and proud to be able to say that my department was back up and running in Rockhampton, Yeppoon and Biloela on the first business day after the cyclone, albeit running off some very large generators. When we bear in mind that the local staff have also enjoyed the same experience of the disaster events as the community, that is a pretty big undertaking. In addition to manning those service centres, we have also had staff operating in both recovery hubs in Yeppoon and Rockhampton. To assist with ease of access in more remote areas, we also diverted one of our mobile service centres—which I have spoken about in this chamber before—to this region from Monday of last week. It has visited a number of smaller towns and villages. Today it is in Marmor, helping there.

Our phone lines were open straight away. Since that Sunday we have taken over 9,400 phone calls relating to both cyclones. We have received, in Queensland, 7,485 claims for disaster recovery payments and, as a result of that, granted 3,263. *(Time expired)*

**Senator CANAVAN** (Queensland) (14:40): Mr President, I ask an additional supplementary question. Can the minister advise the Senate how the government is supporting Australians in the Arnhem region affected by Cyclone Lam?

**Senator PAYNE** (New South Wales—Minister for Human Services) (14:40): Thank you, Senator Canavan. The destruction in Galiwinku and Elcho Island was also very significant. The Commonwealth and the Northern Territory government have been working very hard to help the community get back on its feet—

**Senator Cameron:** Did you tell them you were paying them less than the Tasmanians got?

**The PRESIDENT:** Pause the clock. Senator Williams, on a point of order.

**Senator Williams:** Mr President, I rise on a point of order. This is a very serious question. I would ask you to ask Senator Cameron to stop interjecting while we get this very serious answer, please.

**Senator Cameron:** On the point of order: I am only trying to explain that Queenslanders are being treated as lesser than people in Victoria and Tasmania. The senator should be honest about that.

**The PRESIDENT:** There is no point of order. Senator Cameron, resume your seat. Order! On my right and left.

**Senator Cameron interjecting—**

**Senator Ian Macdonald interjecting—**

**The PRESIDENT:** Order! Senator Cameron and Senator Macdonald. Senator Cameron, on your own admission you were interjecting. I would ask all senators to cease their interjections.
Senator PAYNE: We are used to the contempt that Senator Cameron has for the Australian people, so nothing is a surprise. The governments of the Northern Territory and the Commonwealth, of course, have joined under the NDRRA in the East Arnhem and West Arnhem regions as well. We have remote servicing teams from my department in the communities of Galiwinku, Ramingining, Gapuwiyak and Milingimbi to help expedite these payments. We also have local departmental staff providing specific interpreter services at Galiwinku, and we have sourced interpreters for the other three communities.

As I said, the Minister for Justice visited the region personally on Friday to meet with the community and also to announce additional assistance in the form of the disaster recovery payment. Since the announcement we have granted 255 claims in that part of the Territory. (Time expired)

Australian Human Rights Commission

Senator CONROY (Victoria—Deputy Leader of the Opposition in the Senate) (14:42): My question is to the Attorney-General, Senator Brandis. I refer to the specific role offered to the President of the Australian Human Rights Commission at the request of the Attorney-General on 3 February, 2015. What specific role related to international affairs was offered to Professor Triggs?

Senator BRANDIS (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (14:43): Senator Conroy, as a matter of fact, I did try to share this with the opposition. I did offer Senator Wong a private briefing and she declined.

Senator CONROY (Victoria—Deputy Leader of the Opposition in the Senate) (14:43): Mr President, I ask a supplementary question. I again ask: what specific role was offered to Professor Triggs? Was the specific role offered to Professor Triggs discussed with the foreign minister, or her office, before or after it was made?

Senator BRANDIS (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (14:43): I have offered a private briefing to Senator Wong. I renew that offer, and I have nothing more to say. I have indicated that this is a matter which ought to be the subject of a private briefing and that I am prepared to trust Senator Wong’s discretion and ethics in observing the confidentiality of such a briefing, should she choose to take it. I renew the offer. If she chooses not to take it, and to keep herself in ignorance, that is entirely a matter for her.

Senator CONROY (Victoria—Deputy Leader of the Opposition in the Senate) (14:44): Mr President, I ask a further supplementary question. I again ask: what specific role was offered to Professor Triggs? Was the specific role offered to Professor Triggs discussed with the Prime Minister, or his office, before or after it was made?

Senator BRANDIS (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (14:44): I have nothing to add to my earlier answer.

Foreign Investment

Senator WILLIAMS (New South Wales) (14:44): My question is to Senator Abetz, Leader of the Government in the Senate, and Minister representing the Minister for
Agriculture. Can the minister outline the changes to the rules for foreign investment in Australian agricultural land which came into effect yesterday?

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): I thank Senator Williams for the question and acknowledge his longstanding interest in this issue.

The coalition government has been taking a number of steps to increase scrutiny and transparency of foreign investment in Australian agriculture. We understand that investment in Australian agriculture, both domestic and foreign, is vital for growth, innovation and regional development; as a result, we welcome it. We also understand that the Australian community must have confidence that this investment is in our national interest and will provide flow-on benefits for farmers and regional communities, as well as for the national economy and the Australian people.

As of yesterday, the FIRB scrutiny threshold for private sector foreign purchases of agricultural land will be reduced from the current level of $252 million down to $15 million. The $15 million threshold is also cumulative, meaning that a private sector foreign investor will not be able to purchase an $8 million property one day and a $7 million property the next day without approval from the FIRB. At the same time, all foreign investment proposals for agricultural land from government related entities will require FIRB scrutiny and approval, regardless of value.

The government is also in the process of establishing a foreign ownership register of agricultural land within the Australian Taxation Office, regardless of value, from 1 July 2015. The ATO will also commence a stocktake of existing agricultural land ownership by foreign interests. In the recently signed free trade agreements with China, Japan and Korea, there are provisions for Australia to apply lower thresholds to private sector proposals to invest. (Time expired)

Senator WILLIAMS (New South Wales) (14:47): Mr President, I ask a supplementary question. Can the minister outline to the Senate the benefits of these changes and whether these changes will impact foreign investment in Australian agriculture?

Senator ABETZ (Tasmania—Leader of the Government in the Senate, Minister Assisting the Prime Minister for the Public Service and Minister for Employment) (14:47): The government has long been aware of community concern that no-one had a complete picture of the levels of foreign ownership of our agricultural and agribusiness assets, so the government is reworking the framework to provide clarity to the community and certainty to investors.

Australia remains one of the most attractive destinations for foreign investment. Genuine, above-board foreign investors will not be concerned by the coalition government's very reasonable measures to increase transparency around foreign investment in agriculture. By contrast, the opposition advocates that no foreign purchase proposals for agricultural land need be screened by FIRB unless they exceed $1,000 million. For $1,000 million, you could buy a very large tract of Australian agricultural land indeed in one go. And, in our home state of Tasmania, that would be a fair share of it. (Time expired)

Senator WILLIAMS (New South Wales) (14:48): Mr President, I ask a further supplementary question. Last week the shadow minister for agriculture, Mr Fitzgibbon,
Senator ABETZ (Tasmania—Leader of the Government in the Senate, Minister Assisting the Prime Minister for the Public Service and Minister for Employment) (14:48): I can confirm that the shadow minister did indeed challenge the Minister for Agriculture to a debate on foreign ownership, and he did state that he would be prepared to debate the minister on this important policy matter 'any time, any place'.

Minister Joyce subsequently arranged to conduct the debate at the Woolbrook Hall in Woolbrook in the minister's electorate of New England. I can also confirm of course that the shadow minister did not attend. Had the shadow minister turned up, he would have been reminded that the coalition government remains strongly committed to ensuring we have the right level of oversight and scrutiny in place to review foreign investment.

We believe we have struck the right balance by introducing a $15 million FIRB review threshold for agricultural land and with our proposal to introduce a $55 million FIRB review threshold for agribusiness. What is Labor proposing to do? Labor is proposing to lift the threshold to over $1,000 million. (Time expired)

Defence Procurement

Senator GALLACHER (South Australia) (14:50): My question is to Senator Brandis, Minister representing the Minister for Defence. I refer the minister to reports on the ABC's Insiders program yesterday that documents exist confirming that the Prime Minister has done a deal with Japan to build Australia's new submarine fleet. Do such documents exist?

Senator BRANDIS (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (14:50): Senator Gallacher, I thank you for that question. No deal has been done in relation to Australia's future submarine fleet. No deal has been done, Senator Gallacher, and no decision has been made.

Senator Wong: Mr President, on a point of order, I am aware that the minister does have some time but he was sitting down so quickly, I thought I had better get in quickly. The question was: 'Do such documents exist?' I draw his attention to the question.

The PRESIDENT: By inference, I think the minister is answering the question by indicating that no such deal has been done. But, equally, Senator Wong, you are right; the minister does have one minute and 42 seconds left to answer the question.

Senator BRANDIS: I thought I was asked whether documents existed evidencing a deal. No deal has been done.

Senator Conroy: Yes, it has.

The PRESIDENT: Senator Conroy!

Senator BRANDIS: No deal has been done. No decision has been made. What the government has announced is that there will be a competitive evaluation process to select an international partner to develop the next generation of Australian submarines.

I must say, Senator Gallacher, I find this more than curious coming from you, a Labor senator—this new-found interest in the Australia submarine project, which was allowed to lie in abeyance for the entire six years of your Labor government.
For six years, you did nothing. Your party did nothing. Through successive defence ministers, the future submarine lay in the too-hard basket because not one of your ministers whether it was Joel Fitzgibbon, whether it was John Faulkner, whether it was Stephen Smith was prepared to make a decision. This government has made a decision to progress the future Australian submarine. No decision has been made as to the international partner. A decision will be made as a result of the competitive evaluation process that was announced by the Prime Minister and the Minister for Defence. The various bidding countries, whether they be Japan or France or Germany, will be appraised and are being appraised. But Senator Gallacher, you sat on your hands for six years and did nothing.

Senator GALLACHER (South Australia) (14:53): Mr President, I ask a supplementary question. I refer the minister to reports in The Australian today which say that documents were prepared to announce a deal with Japan. The article said:

The process reached a point where media releases were prepared but never sent out.

Can the minister confirm that media releases were drafted by the government announcing a deal for Japan to build our submarine fleet?

Senator BRANDIS (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (14:53): Senator Gallacher, I have not read that article in The Australian this morning. Oppposition senators interjecting—

Senator BRANDIS: I actually have not so I am not in a position to comment on it in detail. But I can tell you, Senator Gallacher, that no deal has been done—

Senator Conroy interjecting—

The PRESIDENT: Senator Conroy.

Senator BRANDIS: and no decision has been made. I do not know how many times I have to tell you that, Senator Gallacher. You know what the Prime Minister and Mr Andrews announced. You are aware of the competitive evaluation process. You know that the government has said that Australia will need to engage an international partner to pick up where you left off. Senator Gallacher, your side of politics, through three defence ministers and three successive prime ministers, left a capability gap in one of Australia's most important strategic capabilities. You should be ashamed of yourself.

Opposition senators interjecting—

The PRESIDENT: Order on my left.

Senator GALLACHER (South Australia) (14:54): Mr President, I ask a further supplementary question. I refer Senator Brandis to Peter Hartcher's article in The Sydney Morning Herald on 20 February about the submarine debacle where he quotes an Abbott government minister saying:

There was a headlong rush to be best buddies with Abe … and we've been backfilling ever since.

Isn't the government's sham process for Australia's future submarines designed only to deliver a decision already made in secret by the government?

Senator Conroy interjecting—
The PRESIDENT: Order Senator Conroy.

Senator BRANDIS (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (14:55): I have already answered the substance of the question. Senator Gallacher, you talk about a debacle; how is this for a debacle—a government that gets elected in 2007 knowing there is a need to progress to the next generation of Australian submarine after the last Labor debacle of the Collins class submarine and then goes on for six years and does precisely nothing across three defence ministers and three prime ministers knowing with each successive year that the capability gap in this vital strategic asset is growing and growing and growing. I do not know, Senator Gallacher, how more simply I can put this to you. For six years you did nothing, not a thing to progress the next generation of the Australian submarine. This government inherited that debacle from you and we are determined to ensure we get the best deal.

Opposition senators interjecting—

Water Safety

Senator O'SULLIVAN (Queensland—Nationals Whip in the Senate) (14:56): This is a significant question and I would appreciate it if you would take the time to listen.

Opposition senators interjecting—

The PRESIDENT: Order on my left.

Senator O'SULLIVAN: My question is to the Assistant Minister for Health, Senator Nash. I refer to the fact that, tragically, there are over 250 drowning deaths in Australia every year. Indeed, the 10-year average is 292 drowning deaths per year. Would the minister please update the Senate on the vital topic of water safety and the most recent findings on drowning deaths in Australia?

Senator NASH (New South Wales—Deputy Leader of The Nationals in the Senate and Assistant Minister for Health) (14:57): I thank Senator O'Sullivan for his question and for his interest in this critical issue. Every year the Royal Life Saving Society of Australia's national drowning report examines unintentional drowning deaths in Australia. The recent 2014 report shows that 266 people drowned in Australian waterways during the 2013-14 financial year. This is the lowest number of drowning deaths recorded in the past 12 years, but it needs to be lower.

Inland waterways continue to claim the largest number of lives with 105 people tragically drowning in rivers, creeks, lakes and dams around the country. Swimming pools have overtaken beaches as the second highest number of drowning deaths with 39 deaths compared to 34. Sadly, children under five continue to account for a large proportion of fatalities in swimming pools.

The report states that preventing drowning deaths is a collective responsibility. Government can and will do its part but families and communities can take simple steps to reduce drowning risk factors. First and foremost, 47 per cent of people who drowned in 2013-14 had positive readings for alcohol at the time. The consumption of alcohol dramatically increases the risk of drowning because it impairs judgement. The Australian government and the RLSSA strongly encourage Australians not to swim under the influence of alcohol.
The report reiterates that home swimming pools must have a complaint pool fence with a self-closing and self-latching gate. Children need basic swimming and water safety skills. Australians should swim at patrolled beaches during patrol times and swim between the flags.

I want to thank the RLSSA for delivering this crucial report which provides evidence on how Australia is tracking in relation to drowning prevention and where we need to focus our efforts.

Senator O'SULLIVAN (Queensland—Nationals Whip in the Senate) (14:59): Mr President, I rise to ask a supplementary question. Would the minister advise the Senate of the government's efforts to reduce preventable drowning deaths in Australia.

Senator NASH (New South Wales—Deputy Leader of The Nationals in the Senate and Assistant Minister for Health) (14:59): In the 2014-15 budget, the Australian government committed $15 million over five years for the water safety reduce drownings program. This program provides $8 million for surf-lifesaving clubs to purchase water safety equipment, $2 million for Surf Life Saving Australia to address beach drowning black spots, and $1 million for AUSTSWIM for the promotion of access to quality and accredited swimming and water safety. This is on top of the $8½ million a year already invested by the Commonwealth government to support water safety in Australia. This funding is used to support the ongoing operations of Surf Life Saving Australia, the RLSSA and AUSTSWIM as well as supporting Laurie Lawrence Swimming Enterprises to develop, promote and distribute water safety materials that aim to reduce the incidence of accidental drowning deaths of children under five.

Senator O'SULLIVAN (Queensland—Nationals Whip in the Senate) (15:00): Mr President, I ask a further supplementary question. Can the minister update the Senate on measures in place to address the fact that 39 per cent of drowning deaths occur in inland waterways?

Senator NASH (New South Wales—Deputy Leader of The Nationals in the Senate and Assistant Minister for Health) (15:00): As a senator for New South Wales and a representative of rural and regional Australia, as so many of my colleagues are, it is distressing to know that 90 drowning deaths occurred in New South Wales last financial year and that 105 occurred in inland waterways across Australia. I am pleased to say that, as part of the $15 million committed in the budget to water safety, the government is providing $4 million towards the RLSSA's inland waterways drowning fund. The fund will investigate high-risk inland waterways; expand community education and awareness programs targeting alcohol consumption, the use of safe watercraft and practical lifesaving skills in rural and remote areas; and build and expand the River Drowning Black Spot Identification Program. We want Australians of all ages to enjoy themselves in the water and to relish this important part of our lifestyle. The government is playing its part, and we encourage parents, carers, teachers and individuals to do the same.

Senator Abetz: I wish Senator Nash well with her endeavours and ask that further questions be placed on the Notice Paper.

QUESTIONS WITHOUT NOTICE: TAKE NOTE OF ANSWERS

Australian Human Rights Commission

Senator CAMERON (New South Wales) (15:02): I move:
That the Senate take note of the answers given by the Attorney-General (Senator Brandis) to questions without notice asked by Opposition senators today.

If there was ever a confirmation of a decision by the Senate to censure a minister, it was Senator Brandis's performance in question time today. Here we have a minister who is dismissive of the important question of ministerial integrity. We have a minister who threw his secretary to the wolves at Senate estimates and who did not even have the courage of his own convictions to go and front the President of the Human Rights Commission and say that he had lost confidence in her and he wanted her to move on and that a job would be available if she moved on. He did not have the courage to do that, so he sent the secretary of his department. If ever you could see by the look on anyone's face that they had landed themselves in real trouble, it was the secretary of the department, Mr Moraitis, who was sitting there looking so uncomfortable. He wanted to be anywhere but in Senate estimates.

When you look at what has happened, it was a concerted and organised attack on a woman of significant integrity: the President of the Human Rights Commission, Gillian Triggs. What Senator Brandis did was to unleash the attack dogs on President Triggs. That was supported by the shock jocks on the radio, supported by News Limited, led by *The Australian*, and led at the estimates committee by the Bjelke-Petersen-era bovver boys, Senator Macdonald and Senator O'Sullivan. They were there—

The DEPUTY PRESIDENT: Senator Cameron, I think I will ask you to withdraw.

Senator CAMERON: I withdraw. It was pursued by the bovver boys of the Bjelke-Petersen era, out there thinking they have gone back 30 to 40 years; they can treat people with absolute contempt; and they can do whatever they like. That is the position that was set about by Senator Brandis in his attack on the President of the Human Rights Commission.

Senator Brandis prances around the place preening himself continuously. Well, there is not too much prancing and preening going on at the moment, as the Federal Police will be lining up to ask him detailed questions on why oh why he sent his secretary off to get a commitment from the President of the Human Rights Commission to give up her position in return for another position somewhere else, simply because Senator Brandis does not like the President of the Human Rights Commission and does not like the Human Rights Commission as a body. And he is not on his own there. It is the whole conservative coalition. They do not like the Human Rights Commission. They do not like the president of that commission. This was too smart by half by Senator Brandis, and there are further questions that will need to be asked. It is untenable for a minister to send his secretary to offer up an alternative job to the President of the Human Rights Commission because that minister and the coalition do not like the individual that is in the position and do not like the commission itself.

When you saw what has gone on and you saw the estimates hearing, you must have been appalled. Everyone was appalled, looking at what was going on there. This was from Senator Brandis, who was a so-called moderate in the coalition in the past. This is where the moderates are in the coalition now: prepared to attack the female president of the commission because they do not like her, and they sent out the bovver boys to attack her mercilessly. This is not what democracy is about, and Senator Brandis has lots of questions to answer. He has failed to answer them. There is no doubt that the censure was an appropriate censure, and this minister is not fit— *(Time expired)*
Senator REYNOLDS (Western Australia) (15:07): I also rise to take note. What we have just heard from Senator Cameron is exactly what has been wrong with this whole debate and what happens when you play the men and not the issues at hand. First of all, I would like to correct his statement that the bovver boys of Bjelke-Peterson were unleashed. In case he has not noticed, in my case he has the wrong sex, the wrong state and the wrong era. That aside, let’s get on to the facts.

The DEPUTY PRESIDENT: Order! Senator Reynolds, resume your seat for a moment, please. Senator Cameron on a point of order.

Senator Ian Macdonald: There's no point of order. Sit him down.

The DEPUTY PRESIDENT: I am entitled to hear what the point—

Senator Ian Macdonald interjecting—

The DEPUTY PRESIDENT: Senator Macdonald, you are not in the chair. I do not need your assistance. Senator Cameron has risen to raise a point of order and I will hear it.

Senator CAMERON: Thanks, Deputy President. I apologise if I did not include the senator in the bovver-boy attacks. You are not the same sex, but if you want to be a bovver boy or a bovver girl, that is okay.

The DEPUTY PRESIDENT: Senator Cameron, that is not a point of order.

Senator Ian Macdonald interjecting—

The DEPUTY PRESIDENT: And thank you for your assistance, Senator Macdonald, but it is not necessary.

Senator REYNOLDS: Instead of playing the men, the hypocrisy in what I just heard from those opposite is breathtaking. On the one hand they are saying that the government and the Attorney-General are besmirching the reputation of the President of the Human Rights Commission simply because she is a woman, but, in the same breath, they are absolutely besmirching the reputation of the secretary of the Attorney-General's Department, who is a man of total integrity and respect.

If that is not enough, this morning I was delighted to rise and speak in support of the Attorney-General on the censure motion. What I pointed out are the very uncomfortable truths for those opposite. I went to the hearings last week, with the Human Rights Commissioner and commission staff, wanting the answers to two very simple questions, I thought, that had not been clear. The first was: when did they decide to have this inquiry? As I said previously, I came out with four distinctly separate answers over the space of 12 months. That is not exactly the clarity you would expect from those who were giving evidence. Then, as to why they decided to have the inquiry, there were seven separate answers and at least four contradictory answers were on the same page of Hansard. So the two key questions that I think every taxpayer, not just those in government, deserves to have answered were not answered: when did they decide to hold the inquiry and why did they decide to hold it?

Somewhat amazingly, Human Rights Commission staff, including the president, raised two completely new and different reasons for holding the inquiry. There was a range of reasons in the testimony in November, there was the clarifying statement in December to clarify the November advice, and then the opening statement provided a number of reasons why the inquiry was held. Then, somewhat extraordinarily in evidence on the day, Operation
Sovereign Borders popped up its head as a completely new reason for having the inquiry. It had never been mentioned before. Not only did Sovereign Borders come up but it changed four times: yes, it was; no, it was not; yes, it was; no, it was not; yes, it was. Almost all of those were in the course of one page of Hansard. There is the third question that now needs to be answered and was not answered in the seven hours of testimony.

Even more extraordinarily, in my mind, is that not only did Operation Sovereign Borders poke its head up but the issue was initially raised by the president that it was Operation Sovereign Borders that resulted in the drying up of information to the commission. Guess what? That evidence changed seven times as well, by my count, over the course of the testimony from the Human Rights Commission. Not only did it change but it transpired that there was drying up of information from Sovereign Borders and then there was not; then it went back to the caretaker period, then it went back to before the caretaker period, then it went back to Sovereign Borders and then it went back to the caretaker period—back and forth in the course of a single day of testimony.

So, by my reckoning, instead of having two key questions to answer—why was it called and when was called—we now have two whole new questions to pursue. Nothing would give me greater pleasure than, when the Human Rights Commission reappears before the estimates committee, us getting very simple and very clear answers to those questions. Until we get those answers, it is not a matter of playing the commission or the commissioner. This is a taxpayer funded organisation and there are many things the commission could have inquired into regarding the human rights of Australians. We have review on at the moment of young people in nursing homes, domestic violence and why—(Time expired)

Senator BILYK (Tasmania—Deputy Opposition Whip in the Senate) (15:13): I too rise to take note of answers given today by Senator Brandis, specifically dealing with Professor Triggs, who is the President of the Australian Human Rights Commission. The answers given today were completely unsatisfactory. I am a member of the Legal and Constitutional Affairs Legislation Committee. I sat there for hours of questioning of Professor Triggs by senators. Can I say that I have never seen, in the nearly seven years I have been here, such an attack on a statutory officeholder during estimates. We all know that through estimates things can get a bit uptight. In fact, I have been in some Senate estimates hearings where the chair has closed down estimates so that people could catch their breath. None of that was forthcoming through estimates. While he was chair, Senator Macdonald was taking points of order on himself and deeming them out of order. It was a pretty bizarre day, all in all.

One thing that confuses me is that the secretary of the department was sent along by the Attorney-General—who obviously did not want to do the work himself—to make three points to Professor Triggs. There seems to be a debate—the word 'inducement' has come up and been knocked back. Maybe it was an incentive. I am not sure what word people want to use. I am very concerned about the fact that the Attorney-General thinks you can say to someone, 'I've lost confidence in you but here's another role we think you'll be good at'—and I would be pretty shocked if the general public think the two are not linked. In the Hansard, even the secretary of the department seems to think they are linked. I quote:

Senator WONG: I am suggesting to you that you knew perfectly well that the two propositions—the resignation and the offer of a new position—were linked.
Mr Moraitis: I did not know whether there was an express linkage. All I was asked to convey was that there was a lack of confidence.

Senator WONG: Sorry, what was your answer?—’I did not know if they were expressly linked’.

Mr Moraitis: I did not think there was an express linkage.

Senator WONG: Did you understand there to be a linkage?

Mr Moraitis: As I said, my view was that one could not fulfil the second legal role while doing the first.

Senator WONG: So, they were linked?

Mr Moraitis: One would follow from another, possibly.

It is all there in the *Hansard*. It is on page 54 if you are interested in looking at it.

Senator Conroy: Guilty as charged!

Senator BILYK: I think so, Senator Conroy; it is absolutely guilty as charged. It was quite disheartening to see through that whole estimates—and we have heard Senator Brandis say here today that he is not impugning the character of Professor Triggs—that the Attorney-General just sat there and let other people destroy Professor Triggs’s professional standing and impugn her motives and competence. Others set out to destroy her reputation and the Attorney-General did nothing to defend her. I think that is beneath the position of the Attorney-General. He came in here early today during the censure motion—which was won—stating that he was not attacking Professor Triggs’s character. Well, let me say that they were. It shows us what sort of a government we have got. It shows us that the government are the ones who are damaging the reputation of the committee. Minister Brandis and the coalition government politicised the whole Human Rights Commission and the position of the president. It was not the position of the president that did that, it was the government. They have used these unfounded and unfair attacks to save their own political skins simply because they did not like the report that came down. It is beyond belief. I have had so many people make comment to me since the estimates about the chair could just sit there having a go at what is in the report— *(Time expired)*

Senator IAN MACDONALD (Queensland) (15:18): This debate so far today has lacked a couple of inconvenient truths—inconvenient to the Labor Party. Senator Conroy today in question time was asking about the role allegedly offered to Professor Triggs. If Senator Conroy or Senator Cameron had been in the hearing, they would have understood what happened.

Senator Bilyk: I was in the hearing.

Senator IAN MACDONALD: Then you would know, Senator Bilyk. Here is what happened. The Attorney said, ‘I'd like to tell you this’; and the secretary said, ‘I'll tell you this.’ At that moment in the committee hearing Mr John Reid, who I understand is the senior officer in the International Law Division of the department, lent across and said to both the minister and the secretary, ‘Don't say it’—I do not know that he said that, but he gave advice. As a result of that advice both the Attorney and the secretary said, ‘Sorry, we've just been advised we cannot mention this.’

Further to that—in another inconvenient truth for Senator Conroy—Professor Triggs indicated that she knew what the position was. That is why she did not ask the secretary and that is why the secretary did not tell her. She knew what the position was. I do not know what
the position was. The secretary, the minister and Professor Triggs know what the position was, but nobody else does. The minister and the secretary and, I assume, Professor Triggs were advised by Mr Reid not to make that public.

Senator Brandis indicated that he did offer a private briefing to the Leader of the Opposition in the Senate. Any substantive and serious Leader of the Opposition in the Senate would have accepted the invitation so she could have found out what it was all about. I have to say that the behaviour of the Leader of the Opposition in the Senate in that hearing was absolutely appalling. On no fewer than four occasions did I as chair of that meeting have to ask Senator Wong to remove herself from the hearing because of her continual and continuous interjecting. And the same, I might say, went for Senator Hanson-Young. In this whole hearing it was very evident that there was a concerted attempt by Senator Bilyk, Senator Wong, Senator Collins, Senator Hanson-Young and Senator Wright to shout from each end of the Senate table and interrupt the testimony of witnesses and people asking questions.

Another inconvenient truth that Senator Conroy and the Labor Party have glossed over—and senators on the other side who were there should be aware of this—is that the evidence to the committee was that Professor Triggs actually asked the secretary to ascertain what Senator Brandis and the government thought about her chairmanship of the Human Rights Commission and about the Human Rights Commission. She asked the secretary to go and ask Brandis what Brandis thought about her. Brandis responded to the secretary, and the secretary then told the President of the Human Rights Commission. So it is an inconvenient truth for the Labor Party that Professor Triggs actually initiated this and asked for it. As Senator Reynolds has been mentioning, one of Professor Triggs's comments related to—

Senator Bilyk: I rise on a point of order. The senator seems to be—

Senator Conroy: Confused.

Senator Bilyk: Confused because what was actually asked by the professor was why the 28 day of—

The DEPUTY PRESIDENT: No. This is a debating point. Senator Bilyk, resume your seat. There is no point of order.

Senator IAN MACDONALD: Professor Triggs allegedly said that the information was drying up. I cannot understand that because, as chair of that committee, we had had umpteen different inquiries into various aspects of the migration legislation. At every one, I venture to say, we would ask the department how many kids were in detention, how many had been released and when they expected the kids to be out of detention. This is the crucial point: this government has got rid of the kids out of detention. The whole incident is an indictment of the Labor Party.

I want to conclude by telling something to good old Senator Cameron, who I do not think has ever bothered to bother about the truth of anything. He calls me a bovver boy of the Bjelke-Petersen regime. Senator Cameron might like to know that I was one of Bjelke-Petersen's greatest opponents.

Senator DASTYARI (New South Wales) (15:23): I too rise to take note of answers given by Senator Brandis. I want to begin by saying that—

Senator Ian Macdonald: You stuffed the ballot box!
The DEPUTY PRESIDENT: Order!

Senator DASTYARI: I was not present at the Senate estimates hearing—

Senator Ian Macdonald: But you were there when the ballot boxes were stuffed!

Senator DASTYARI: that other people were present for. And, unfortunately, I am not as well versed in the events of that day. I am not going to comments on the events of that day because I was not there. I think there is a very important issue at the heart of this report that I want to draw some attention to. I feel it is unfortunate that the debate and incidents around what has happened with Professor Triggs has detracted from what, I think, is a very important report. There are elements of the report that are worthy of discussing here.

I want to begin by saying that it is a good thing that there are fewer children in detention at this point in time, as there has been in other points in time. That is a good thing. What not is a good thing is, unfortunately, a lot of these children have been in there for a very long period of time. I personally believe that any opportunity to shine a light on how we deal with this complex and difficult policy matter is a actually good thing. The work that the Human Rights Commission has done and its role in highlighting some of this should actually be congratulated. I have read the report and I have gone through the recommendations. I do not necessarily agree with all the recommendations, but I think they are an important part of the public policy debate.

When you come to this chamber in the way that I have come to this chamber, it is very difficult not to have sympathy for the plight of a lot of the people and a lot of the children who are in detention. As a lot of people know, and my friends in this chamber know, I came to Australia when I was five years old. My parents were political dissidents in Iran. We had a very difficult story and we had a very big struggle to actually come to this country. We came under a different migration program. As I have said to others at different points in time, we could easily could have come under a refugee style convention. I would not have thought any less of my parents if they had chosen to flee the regime and come through other means.

There is a really difficult issue at the heart this—that is, how do you provide a fair and equitable system? How do you make sure you are doing the right thing by these children who are in detention and, at the same time, provide the necessary deterrent? No-one wants a situation where there are people risking their lives by taking unnecessary risks and where there are incidences of things like drownings at sea. This is a real issue that we have to confront and deal with. This is not an easy part of the policy debate. This is a hard issue in which we are trying to balance two very important principles.

When I look at the stories and at the incidence of the 161 children currently in detention, quite a few of them were actually born not that far from where I was born. Quite a few of those children are actually Iranians. Several of them were from a few hours where I was born and the part of Iran that I came from. This country has given me an incredible opportunity in the short period that I have been here—the 26 years that I have been in this country. I know that there are many other migrants in this chamber with different backgrounds and different migrant stories. In one way or another, apart from, perhaps, Senator Peris, we are all one or two generations away from being migrants. For a lot of us, it is a very, very difficult issue.

Professor Triggs should be congratulated on the report she has produced. She is a person of utmost integrity. Shining a light on these issues is a good thing. It should be encouraged. I
think this is not an easy debate for us to have. There is actually a lot of quality in the recommendations she has put forward. Again, I do not agree with all of the recommendations. I am not necessarily sure that going down the path that she recommends at every instance is necessarily the right thing to do in a public policy sense. But I do believe that at the heart of all this, at the heart of this debate and at the heart of this report, there is a very important issue. The actions by Senator Brandis in making this entire debate about the professionalism of Professor Triggs, which I do not think should be in question, has detracted from the real debate we should be having and it is not an easy debate—that is, how do we do the right thing by these 161 children who are still in detention?

Question agreed to.

Iraq and Syria

Senator MILNE (Tasmania—Leader of the Australian Greens) (15:29): I move:

That the Senate take note of the answer given by the Minister for Employment (Senator Abetz) to a question without notice asked by Senator Milne today relating to the deployment of Australian troops to Iraq.

I asked the Minister representing the Prime Minister, Senator Abetz, to confirm that it is the case that, if he wanted to, the Prime Minister could deploy 3½ thousand troops to invade northern Iraq unilaterally because that is the current law in Australia. I pointed out that that is why it is dangerous and should come to the parliament. Senator Abetz chose not to answer the question. But it is a fact that the Prime Minister could do that if you wanted to. That is what is so frightening about it. We have in this country a situation where a Prime Minister can deploy our troops without reference to the parliament. That is wrong; it should change.

But what is even more appalling at the moment is that Prime Minister Key in New Zealand stood up and announced that the New Zealanders were sending 143 troops as part of an Australia New Zealand joint mission to Iraq. That is on top of the 200 special servicemen and servicewomen we already have there, plus the 400 on standby in the Air Force. So, here we go, hundreds more, it seems, are going to Iraq, and the Prime Minister did not have the courage to front it here in Australia and come out and say he had already made that decision and that there had been a decision for a joint deployment. No, he went to New Zealand and let the New Zealand Prime Minister announce it, and we still do not know how many more Australian troops are going to be deployed. We do not know how long for. The New Zealanders are saying up to two or three years. Well, let's hear it from the Prime Minister. Are we sending Australian troops? Are we sending our combat troops, or are we sending more special troops? What is the deal, for how long and to what end?

What we have here is a situation where the response of the Australian government has never been to tell the Australian people what the outcome is that they intend to secure with the use of Australian troops. At the same time, what do we know? We know that the Turkish border is still incredibly porous. We know that young people being recruited from around the world are meeting in Turkey and being taken over the border into the ISIL held territories and as a result of that into the caliphate. We also know that when other countries in the region are broken, in terms of their finances, we have got ISIS taking the oil fields in Iraq and Syria. They are selling that oil on the black market. They have a $2 billion budget and a $250 million surplus. What is more, it is alleged that the Syrian government is buying oil from ISIS.
It is time we got real about ISIS getting its funding from oil. It is being sold on the black market. To whom? What are we doing about that? What are we doing about the porous borders? Why do we not actually engage those issues rather than continue to deploy Australian troops with no specified mission, no time line? We know that there will be massive trauma as a result of this deployment. I have said endless times that we are sending our troops into a quagmire. We started off with just sending supposedly humanitarian aid, and this is ending up to be exactly the mission creep that we ought not to be supporting. As if it were not bad enough in 2003 when we marched into Iraq behind a Prime Minister, John Howard, who sent us there without a reason for war on a false pretence, every other country has had an investigation into how their Prime Minister did that. But Australia has not. They have been protected, and Labor is as bad as the government in protecting the Howard government from the investigation we should have had into why we went into Iraq on a lie. Now we are going again. Before we know it, we are going to have 1,000 Australians stuck in Iraq again. For how long and to what end?

This is not the way that we should be running the country, and it is not the way we should be exposing Australian men and women to the horrors that are going on in the Middle East as we speak. We should bring our troops home and we should get serious about cutting off the money supply to ISIL which they are getting from the black market sale of oil. We should be working in the diplomatic sense to close that border and stop those porous borders. It is time that we stopped this nonsense of suggesting that just sending more and more troops is going to make a difference. The Prime Minister said there would be no boots on the ground. Well, we already have 200 on the ground, 400 in the air, and now Prime Minister Key tells us we are going to have hundreds more. The Prime Minister has been a coward not to front the Australian people with exactly how many more servicemen and servicewomen he is going to send there or for how long and to what end. *(Time expired)*

Question agreed to.

NOTICES

Presentation

Senator O’Sullivan to move:

That the Senate—

(a) recognises and commends the Rural Industries Research and Development Corporation for working closely with kangaroo meat and hide industry officials to develop an export feasibility study; and

(b) notes that:

(i) this will help industry provide the grassroots information that will assist in further negotiations and understanding of this unique industry with our trading partners,

(ii) this work is being undertaken in conjunction with ongoing efforts by the Department of Agriculture to commence and expand our kangaroo exports to a number of countries, such as Singapore, Thailand, India, Peru and Canada, and

(iii) these efforts will build economic opportunities for communities across rural Australia.
Senator McLucas to move:

That—

(a) there be laid on the table by the Minister representing the Minister for Health, no later than 9.30 am on Wednesday, 4 March 2015, copies of the following National Mental Health Commission documents in relation to its Mental Health review:

(i) the preliminary report which was completed during February 2014,
(ii) the interim report of the Mental Health Review which was completed in June 2014, and
(iii) the final report which was completed by the end of November 2014; and

(b) the Senate not accept a public interest immunity claim by the Minister that tabling these documents would impact the Government's ability to properly respond to the Mental Health Review because:

(i) organisations in the mental health sector are losing staff and being forced to cut services because of the lack of certainty the Government is causing by not releasing the reports,
(ii) the production of these documents is necessary to allow people living with mental illness, their representative organisations and service providers to have an open and honest conversation about the future of the mental health system in Australia,
(iii) the Mental Health Review must be transparent for the community to have faith in the review outcomes,
(iv) there has been significant demand from the mental health sector for the reports to be made available to allow for an informed debate in the lead-up to Government decision-making around the 2015-16 Budget, and
(v) the more than 1,800 organisations and individuals that made submissions to the review have the right to see these reports.

Senators Collins and Hanson-Young, Lazarus, Wang and Lambie to move:

That the Senate—

(a) commends the Australian Human Rights Commission (AHRC) and its President on delivering The forgotten children: national inquiry into Children in Immigration Detention 2014 report;
(b) acknowledges that the Department of Immigration and Border Protection has referred all allegations of abuse involving children in detention, including those evidenced in the report, on an individual basis to police for investigation and action;
(c) respects the independence and integrity of the AHRC and its mandate to promote and protect human rights in Australia; and
(d) expresses its support for, and confidence in, the AHRC and its President.

Senator Siewert to move:

That the Senate—

(a) notes the intention of the Western Australian State Government to review its Genetically Modified Crops Free Areas Act 2003;
(b) calls on the Western Australian State Government to retain the legislative framework that creates genetically-modified organism (GMO) free areas within Western Australia;
(c) notes the enormous financial costs, including court fees and loss of income, that Mr Steve Marsh has incurred after having his organic farm contaminated by genetically-modified (GM) canola from a neighbouring farm; and
calls on the Federal Government to facilitate the creation of a national contamination insurance scheme that ensures that the clean-up and loss of income costs associated with cleaning up a GMO contamination is funded by levies on GM crops.

Senator Cash to move:

That the Senate—

(a) notes that:

(i) 8 March is International Women’s Day (IWD) and that the theme for IWD 2015 is 'Empowering Women, Empowering Humanity: Picture it!', and

(ii) 2015 marks 20 years since the Beijing Declaration and Platform for Action (BPFA), the international plan for achieving gender equality which was agreed by 189 governments, including Australia, at the United Nations Fourth World Conference for Women, held in Beijing, China, in September 1995;

(b) acknowledges:

(i) the work that UN Women, the United Nations organisation dedicated to gender equality and the empowerment of women, undertakes to improve the conditions of women, both domestically and internationally,

(ii) the efforts made by successive Australian Governments in progressing the BPFA aims, specifically in removing obstacles for women’s active participation in all areas of public and private life and establishing shared responsibility between women and men at home, in the workplace and in the community to build a sustainable, just and developed society, and

(iii) that, despite the many rights and privileges Australian women enjoy and the years of passage of the BPFA, there remain challenges that we must strive to overcome on a domestic and international basis; and

(c) recognises:

(i) that in Australia, violence against women is still far too common, with Australian Bureau of Statistics data continuing to show that one in 3 women have experienced physical violence since the age of 15,

(ii) the collective efforts from Commonwealth, state and territory governments to ensure a significant and sustained reduction in violence against women and their children, pursuant to the National Plan to Reduce Violence Against Women and their Children 2010-2022, and

(iii) that all Australians have an obligation to speak out and protect the human rights of women, both in Australia and overseas.

Senator Waters to move:

That the Senate—

(a) notes that:

(i) the Liverpool Plains is one of the most important agricultural regions in Australia with rare and highly productive black soils, excellent water resources and a favourable local climate,

(ii) farming has occurred on the Liverpool Plains for generations and the agricultural productivity of the area is up to 40 per cent above the national average for all farming regions of Australia,

(iii) highly productive agricultural land, like that of the Liverpool Plains, is a finite resource,

(iv) the New South Wales Planning Assessment Commission has recently approved the development of Chinese state-owned company Shenhua's Watermark open-cut coal mine on the Liverpool Plains, which will extract 268 million tonnes of coal over 30 years, 3 kilometres from the town of Breeza,
farmers in the region are angry and extremely concerned that if this coal mine goes ahead their soils and the highly interconnected groundwater aquifers they rely on will be irreversibly damaged, the Northern Daily Leader reported on 4 July 2014 that the Minister for Agriculture (Mr Joyce) said, 'I think the idea of a coalmine on the Breeza Plains is an absurdity' and 'I think it's most likely that it's going to have a deleterious effect on the aquifers'; and the Australian Broadcasting Corporation reported on 9 September 2014 that the Minister for Agriculture said of the Liverpool Plains, 'I've always said from the start that I don't believe that it is the appropriate place for a coal mine'; and (b) believes that the Liverpool Plains should be permanently off limits to coal mining and coal seam gas extraction.

Senator Wright to move:
That the Senate—
(a) notes the study by Melbourne's Monash University which shows fewer people in rural, remote and disadvantaged areas accessing mental health services;
(b) acknowledges that rates of severe mental illness are higher in the most disadvantaged areas;
(c) recognises that people in wealthier areas access psychologists and psychiatrists up to three times as often as those in the most disadvantaged areas; and
(d) calls on the Government to address these inequalities by providing incentives for mental health professionals to practise outside major cities.

Senator Lazarus and Senator Wang to move:
That the Senate—
(a) acknowledges that the possible impact on human health and our water resources from coal seam gas (CSG) mining is not well understood; and
(b) calls on the Government to:
(i) act with caution and stop approving CSG projects until such time as CSG mining is considered completely safe by scientists and qualified professionals, and
(ii) establish a royal commission into the human impact of CSG mining.

BUSINESS

Rearrangement

Senator FIFIELD (Victoria—Manager of Government Business in the Senate and Assistant Minister for Social Services) (15:34): I move:

That general business order of the day No. 29 (Environment Protection and Biodiversity Conservation Amendment Bill 2014) be considered on Thursday, 5 March 2015, under the temporary order relating to the consideration of private senators' bills.

Question agreed to.

NOTICES

Postponement

A postponement notification has been lodged in respect of Business of the Senate notice of motion no. 1 standing in the name of Senator Xenophon for 3 March 2015, proposing the disallowance of the Part 145 Manual of Standards Amendment Instrument 2014 (No. 1), postponed till 18 March 2015.

Extension notifications have been lodged by committees as follows:
Community Affairs Legislation Committee—Aboriginal and Torres Strait Islander Amendment (A Stronger Land Account) Bill 2014—extended from 4 March to 25 March 2015.

Community Affairs References Committee—Commonwealth community service tendering processes by the Department of Social Services—extended from 26 March to 12 May 2015.

Economics References Committee—
- affordable housing—extended from 2 March to 14 April 2015.
- digital currency—extended from 2 March to 10 August 2015.
- implications of financial advice reforms—extended from the first sitting day of July 2015 to 1 February 2016.

Environment and Communications References Committee—electricity network companies—extended from 2 March to 20 April 2015.

Finance and Public Administration Legislation Committee—Department of Parliamentary Services—extended from 18 March to 25 June 2015.

Finance and Public Administration References Committee—violence against women—extended from 2 March to 18 June 2015.

The DEPUTY PRESIDENT: I remind senators that the question may be put on any proposal at the request of any senator.

BUSINESS
Leave of Absence
Senator McEWEN (South Australia—Opposition Whip in the Senate) (15:36): by leave—I move that leave of absence for personal reasons be granted to Senator Ludwig for today, 2 March 2015, and to Senator Brown for 2 March to 5 March 2015.
Question agreed to.

NOTICES
Withdrawal
Senator SIEWERT (Western Australia—Australian Greens Whip) (15:36): On behalf of Senator Hanson-Young, I withdraw general business notice of motion No. 615 standing in her name for today.

MOTIONS
Senator Muir, First Speech
Senator FIFIELD (Victoria—Manager of Government Business in the Senate and Assistant Minister for Social Services) (15:37): I move:
That consideration of the business before the Senate on Thursday, 5 March 2015, be interrupted at approximately 4 pm, but not so as to interrupt a senator speaking, to enable Senator Muir to make his first speech without any question before the chair.
Question agreed to.

Queensland: Abbot Point Coal Terminal
Senator WATERS (Queensland) (15:37): I move:
That the Senate—
(a) notes recent media reporting which shows that Adani’s ownership arrangements in relation to the Abbot Point coal terminal and proposed Carmichael coal mine lack transparency; and
(b) calls on the Federal Government to urgently establish which individuals or corporate entities control the Abbot Point coal terminal and the Carmichael mine, whether all relevant disclosures have been made to the Minister for the Environment, and whether the environmental history of all persons or corporate entities involved has been appropriately considered.


The DEPUTY PRESIDENT: Leave is granted for one minute.

Senator FIFIELD: The government does continue to deliver for the reef. Since coming to government the coalition has taken the number of ports scheduling major capital dredging from five down to zero; has passed legislation to strengthen penalties for poaching of turtles and dugongs; has implemented a $40 million reef trust to improve water quality, cull crown-of-thorns and better protect species; and will be investing in Queensland $2 billion over the next decade in reef protection. I should point out that the Australian Greens did have their opportunity when they were in partnership with those opposite in government. We will shortly launch with Queensland our Reef 2050 long-term sustainability plan, which demonstrates that Australia is managing the Great Barrier Reef to the highest standard.

The DEPUTY PRESIDENT: The question is the general business notice of motion No. 616 be agreed to.

The Senate divided. [15:43]

(The Deputy President—Senator Marshall)

Ayes ....................15
Noes ....................33
Majority ................18

AYES

Di Natale, R
Lambie, J
Ludlam, S
Muir, R
Rice, J
Wang, Z
Whish-Wilson, PS
Xenophon, N

Hanson-Young, SC
Lazarus, GP
Milne, C
Rhiannon, L
Siewert, R (teller)
Waters, LJ
Wright, PL

NOES

Back, CJ
Bullock, J.W.
Canavan, M.J.
Colbeck, R
Edwards, S
Fifield, MP
Ketter, CR
Lines, S
Mason, B
McGrath, J

Bernardi, C
Bushby, DC
Cash, MC
Collins, JMA
Fawcett, DJ
Gallacher, AM
Leyonhjelm, DE
Marshall, GM
McEwen, A (teller)
McKenzie, B
COMMITTEES

Economics References Committee
Refernece

Senator XENOPHON (South Australia) (15:46): I, and also on behalf of Senator McKenzie, move:

That the following matters be referred to the Economics References Committee for inquiry and report by 14 May 2015:

(a) the role, importance, and overall performance of cooperative, mutual and member-owned firms in the Australian economy;
(b) the operations of cooperatives and mutuals in the Australian economy, with particular reference to:
   (i) economic contribution,
   (ii) current barriers to innovation, growth, and free competition,
   (iii) the impact of current regulations, and
   (iv) comparisons between mutual ownership and private sale of publicly held assets and services;
and
(c) any related matters.

Question agreed to.

MOTIONS

Natural Resources

Senator O’SULLIVAN (Queensland—Nationals Whip in the Senate) (15:47): I move:

That the Senate acknowledges the significant importance of the continued development within the natural resource sector to both the national and regional economies, and the positive impact of this sector on employment opportunities and the wellbeing of entire rural and regional communities.

Question agreed to.

MATTERS OF URGENCY

Food Labelling

The DEPUTY PRESIDENT (15:47): I inform the Senate that, at 8.30 am today, two senators each submitted letters in accordance with standing order 75. Senator Siewert proposed a matter of urgency and Senator Moore proposed a matter of public importance for discussion. The question of which proposal would be submitted to the Senate was determined by lot.
As a result, I inform the Senate that the following letter has been received from Senator Siewert:

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

"The need for the Abbott Government to immediately implement Country of Origin food labelling legislation to protect public health and Australian farmers."

Is the proposal supported?

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

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

Senator MILNE (Tasmania—Leader of the Australian Greens) (15:48): I move:

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

The need for the Abbott Government to immediately implement Country of Origin food labelling legislation to protect public health and Australian farmers.

I rise today to absolutely suggest that we get on with the issue of country-of-origin labelling. We do not need any more discussion; we do not need any more reports to cabinet. We can legislate for it right now. We all know that there have been 18 cases of hepatitis A across four states related to the contamination of berries. That has brought clearly into focus the need for having clear labelling of our food products in Australia.

This matter has a long history. It has not just been thought of in the last five minutes. Frankly, it was a joke to hear the agriculture minister suggesting that people have just got on the bandwagon at the last minute. In fact, in 1998 my former colleague, former senator Bob Brown, moved amendments to the 'Made in Australia' legislation and they were not supported by anyone in the Labor Party or the coalition at that time. He tried again in 2005 and, once again, the coalition and Labor opposed the Greens 'Truth in labelling' bill in the Senate. Come 2009—and this would be of interest to former Senator Joyce, now Minister Joyce—former senator Bob Brown, Senator Xenophon and Barnaby Joyce co-introduced a bill to require FSANZ to develop and approve food product labelling standards to be used by food producers, manufacturers and distributors.

Three times since then I have introduced this legislation. It has been through Senate inquiries. We have been through it endless times and, as a result of all those inquiries, it is now very clear what we need to do. We need to change it so that we get rid of that nonsense: 'Made from imported and local ingredients.' No-one knows what that means. No-one knows how much of what in any packet or product is imported or how much is local and, if so, which bits? Nothing. What now needs to be done is very clear: we need a table that stipulates that all significant ingredients are Australian and that, where all processing is undertaken in Australia, it must be labelled with either 'Product of Australia' or 'Produce of Australia.'

Where there has been a substantial transformation—that is, where manufacturing has gone into it—then it needs to be labelled 'Manufactured in Australia' or 'Australian Manufactured.' That clearly tells you that it was substantially transformed here to Australian health and safety standards. It makes no inference about where the product actually came from in the first
place, but it tells you that it was actually manufactured here. We have also opted to do this in a positive way so that you can say 'manufactured here using Australian milk', or 'using' some other product. Cadbury, for example, could do chocolate 'manufactured in Australia from Australian milk'. We need to do that. The third category is when it just packaged in Australia. If it only says 'packaged in Australia' then you can make the assumption that it has been grown and brought here, and sliced up and put on to a tray with gladwrap or whatever on it.

We know what to do. We have been through this a thousand times. It is now the job of government to get on with it. But what we have seen is that the minute we get to this stage, the big food manufacturers move in, make big donations to the Liberal, Labor and National parties and suddenly there are a thousand technical reasons why this cannot go ahead. Do not do it again. Do not listen to the food and beverage council. We have had it time and time again—the multinational food corporations buy off the major parties and that is an end to it. We now need to fix this.

It is not just about labelling—this is, of course, about labelling, but you have to see the trade agreements in the same category. We cannot allow free trade agreements to make it harder for Australian farmers to be able to compete and sell their product in Australia. There are two issues here: let us get on with country of origin labelling. We know what to do. Do not put it off to endless more processes—let us get on with it. Please take the Greens bill. Let us discuss that. Let us get it through across this parliament. If you are serious about it, we can do it. If you are not then say that political donations are going to blow it up again. Let us have some honesty in this debate about where it needs to go. At the same time, with the discussion on the Trans-Pacific Partnership and other free trade agreements, do not sign up to agreements that put Australian farmers at a disadvantage, where they comply with health and safety and environment standards and their overseas competitors do not have to do it.

Senator RUSTON (South Australia—Deputy Government Whip in the Senate) (15:54): I, too, rise today to speak on the urgency motion on country of origin labelling put forward by the Greens. Firstly, we need to be really clear what we are talking about here because there are actually two quite separate issues. One of them relates to country of origin labelling, which, despite what we have heard, does not actually protect public health. Public health, largely, is protected in this space when it comes to imported products or products on your shelf by the quarantine and testing regimes this country has in place. We need to make sure that we do not mix up these two very important issues. I am not saying for a minute that country of origin labelling is not an important issue. I assume this motion has been raised on the back of the mixed berries contamination issue of recent weeks. It should be said that the labelling on the packaging of those berries clearly said that they were made in China. Changing the country of origin labelling on that packet would not have done anything or gone any way to dealing with the issue that there was contamination of hepatitis A in that particular product. That would have only been dealt with by changing our quarantine and our testing requirements for imported products. So I just put that on the record.

If this issue of truth in labelling—and country of origin labelling is but one part of it—had been an easy issue to fix, it would have been fixed by now. This is a very, very complicated issue, and we have to remember that there is a number of players that potentially could be injured if we come up with a set of labelling laws or a set of requirements that could potentially make it detrimental to our Australian producers.
First of all, in dealing with country of origin labelling particularly, we need to establish whether we are talking about food products and only food products. If we are talking about food products then you have a completely different set of requirements, particularly in relation to the difference between the product that is contained—the actual product that is in the container—and the total package of the cost of the product that is on the shelf. I raise this because, in many instances, the product that is actually being sold may be a very small component of the overall cost of the product that is for sale. In many, many instances the packaging, the promotions and the like, and the treatment that occurs in Australia, is the lion's share of the cost of the product, and the actual primary product that is in the actual product is only a very, very small part of it.

So we come down to: what does the consumer want? How do we go about providing truth in labelling that allows the consumer to have some confidence of what they are getting without making it ridiculously onerous for the manufacturer or the producer to comply with? I raise this because of the recent House of Representatives agricultural committee inquiry into this very issue. The report has only recently been brought down. I would certainly suggest to Senator Milne and those who intend to participate in this debate that they get a copy of this particular committee's report because it is an excellent report. It does come to the conclusion that Senator Milne wants us to come to—that is, we have to do something about country of origin labelling and we have to do something about truth in labelling. It also highlights all of the little issues that collectively make up some very significant issues that are faced when trying to deal with this issue in too great a detail.

I can give you a couple of examples, and Senator Milne raised one in her discussions—that is, chocolate. Take an Australian chocolatier like the South Australian company Haigh's Chocolates as an example. We do not have the cocoa powder in Australia, the cacao powder, so they have to import their raw chocolate from overseas. Therefore, if Haigh's wanted to put on their label that their products were entirely Australian, they could not because they have to import this very important ingredient. Everything else that goes into their chocolate is grown, manufactured, sourced and packaged in Australia. Everything happens in Australia but this one vital ingredient of their product is imported—and, as you quite rightly would understand, it is a little hard to make chocolate without the chocolate ingredient—they would not be able to call it Australian made. As the people in this chamber would know, everybody in South Australia thinks of Haigh's Chocolates as being not only Australian but very, very much South Australian.

Another issue is where the majority of your product is made in Australia—take mixed nuts as an example. Your macadamia nuts, your cashew nuts and your almonds are all grown in Australia, but your brazil nuts or whatever have to come from overseas, and you may have to source them from different places during the time of year. If you were required to write on your label every single ingredient that goes to making your product as well as the country of origin, it would be an extraordinarily onerous task. The compliance would probably make it prohibitive for the manufacturer.

The point to make there is that, if we make these things so difficult for the manufacturers or the producers to comply with, we will actually end up disadvantaging our consumers. Right now the most heinous crime a producer can commit in this space is to put something on their label that is false, misleading or incorrect so, if we make the rules so terribly tight and
onerous that it puts manufacturers in a position where they have to overcompensate, we will end up in the situation where they will not put on their label that their products are 90 per cent or 80 per cent Australian, that they are majority Australian, because of fear of not complying and the penalties that go with that.

I assure the mover of this motion that this government is very keen to improve our laws in relation to truth in labelling, particularly in country-of-origin labelling, and support in principle what has been moved here today but we need to be very careful. We need to move with some caution and ensure that when we bring down these new laws—and I assure the mover that we intend to do that—they are laws that are in the best interests of not only the consumer but Australian producers as well.

**Senator Kim Carr** (Victoria) (16:01): The best way to ensure that packaged and processed food is of acceptable quality is to buy Australian. The issues around Patties Foods arose from initial media reports of a consignment of berries that was taken from Peru to China, washed in contaminated water and then exported to Australia. Some food processors say the reason that they did not buy Australian is that wages in this country are too high. That was the proposition that was advanced by the management of Patties Foods when this story first emerged. It was argued that Australian wages were too high to justify the use of Australian products.

If ever there were a case of confusing the issue of price with the question of cost then surely this is one. What this crisis for Patties Foods has demonstrated is that the price of labour per punnet or the price of labour per bag of berries is only a fraction of the cost of production. In the case of Patties Foods it has become quite clear that the cost of not buying Australian has been profound when it comes to the future of that company. We could ask the same in regard to the buyers of Nanna’s frozen berries. I am sure they would point to the fact that at the last count 21 people have been reported with hepatitis and tuck shops at many schools across this nation have been stocked with poisoned berries.

The Chairman of Patties Foods has since this issue arose in fact discovered the real cost to the business of not buying Australian. In recent days he has in fact changed his argument. The argument now is that there is not sufficient capacity from Australian producers to supply his company. I find this an unusual argument. The fact that there is not sufficient capacity may well be true but that is a direct consequence of the policies that have been pursued by our food processors in not buying Australian, because we know of course capacity is developed as a consequence of people actually buying Australian product.

Consumers have a right to know exactly where their food comes from. That is why we have laws setting out what information should be placed on labels of packaged food. Consumers also have a right to expect that the contents of their food will not harm them. There is a responsibility here not just for the producers of food but also for the sellers of food and for the governments that regulate the production and distribution of food. The present system of food labelling clearly has not worked as it should. The frozen berries scare is a reminder of a number of lessons: that labelling needs to set out accurate and reliable information and that it needs to state the origins of food and where food has been processed. It is also the responsibility of regulators to be able to ensure the quality of food that is sold to the public.
The Prime Minister has indicated that the government is considering changes to the laws in regard to country-of-origin labelling. Country-of-origin labelling has been a long-festering issue in trade circles, particularly in periods of free trade agreements, because it is not always clear where a food originates. Labor welcome this commitment and we are more than happy to work with the government on this matter to ensure—for both consumers and producers—that we are able to get high-quality food in this country and that we are not placed in the situation where regulators force Australian-made out of business. We want to ensure that the necessary changes occur with proper consultation with manufacturing industries, other stakeholders as well as consumers.

Senator Milne, the response I am hearing from the Greens seems to suggest that this matter can be fixed almost immediately as if by waving a magic wand. There is no magic wand in this matter. In fact, an overly hasty, knee-jerk response may make a bad situation worse. It is important to ensure that labelling requirements are consistent, as the measures that are taken will cut across a whole range of products. It is also easy to ensure that labelling is clear and concise and actually means something. It is necessary to proceed in that context carefully and with appropriate consultation so that we do not have unintended consequences.

I say that on behalf of the 190,000 Australians who work in food-processing industries. They have rights as well, in this matter. We have to ensure that ‘Australian made’ means something and that it is a description that people can have confidence in. Placing an undue burden on food manufacturing may well have the perverse effect of sending food manufacturing offshore. I want to ensure that people can have confidence in the quality of their food and the quality of food processing in this country.

I say again that buying Australian is the best solution for such a situation, but it has to mean something in the way it is administered. The best way, however, is not to suggest as your starting point that the cost of labour in this country is too high and, as a consequence, you are obliged to import. We know that to be fallacious and, given the circumstances that have arisen with berries, we now understand what the cost to that company has been, not to mention the cost to the 21 people who have contracted hepatitis.

If labelling laws are to change, it is necessary to harmonise Commonwealth legislation with state and territory laws, and the government has to make sure that these arrangements are done in a nationally consistent way. The Minister for Agriculture proposed a diagrammatical approach to food labelling. The real concern for consumers here is that the final product may well not be any clearer, in terms of its source of origin, by as simple a device as that. However, it is an idea that is worth exploring. It is not clear whether replacing the generally informative labels with a pie chart or a similar diagram will, in fact, end up being a practical solution.

The solution to the food-labelling crisis will not be found in gimmicks, it will not be found in stunts and it will not be found by appearing in sound bites on the evening news. We have had a report that has been produced by parliamentary committees but it appears to have had little attention by government. We have had an issue that has been developed for some time in this parliament without any real progress by governments. The government has neglected biosecurity as it has neglected manufacturing, more generally.

The frozen berry scare has demonstrated that the abolition of the post of the Inspector-General of Biosecurity was an ill-judged decision. The government should urgently conclude
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its review of the biosecurity risk import assessment, which is now a year overdue. It is simply not good enough to abandon the Buy Australian at Home and Abroad program, which was initiated by the previous government. It has become a victim of yet another cost-cutting device by this government. The Buy Australian at Home and Abroad campaign allowed people to be encouraged to buy Australian, which is how we develop capacity and how we develop the skills necessary in Australia. We want to make sure that the opportunities for Australian industry to build skills and produce markets are the way in which we can most effectively help in developing Australian industry.

This government has ripped $82 million from Australian participation plans, which was a key pillar of the Buy Australian at Home and Abroad suite of measures. (Time expired)

Senator XENOPHON (South Australia) (16:11): I strongly support this urgency motion. There has been a distinct absence of political will for many years to deal with this issue. I note as recently as 2011 that the Blewett review Labelling logic was tabled—a very comprehensive review by Dr Blewett and not radical in its recommendations. It was tabled on 28 January 2011, yet there was no action by the former government nor was there any appetite by the then opposition to deal with this issue. This is an important issue. If you give consumers a choice, they will act accordingly.

We know in the Northern Territory, in terms of seafood-labelling laws, at takeaway shops and restaurants where you have to specify whether it is local or imported seafood, there has been a real boost to local produce. More and more people buy local produce. They are willing to pay a premium for clean, green Australian produce. We know from barramundi farmers and prawn farmers of Australia that thousands of jobs could be created if we could only improve our labelling laws.

The major parties should not have been surprised by the outcry for these laws in recent weeks. In that, I do not include the Nationals, because they have been long-time advocates of decent food-labelling laws. It is unfortunate that it has taken more than 20 Australians to fall victim to hepatitis A, apparently contracted from imported frozen berries processed in China, to trigger a groundswell for change. I applaud the agriculture minister, Barnaby Joyce, for his announcement last week that commits the government to improvements in the current imported food-labelling requirements, but I fear there will be others in the coalition who will try and stymie him.

I know that Minister Joyce has been committed to this issue for some time. In fact, in 2009, we jointly sponsored, along with then Senator Bob Brown, a bill on this issue. There is now a similar bill that Senator Milne has introduced that I am co-sponsoring with pride. I will work constructively with the government on this issue because the problem is serious and long overdue for reform. Our labelling laws allow for the exploitation of farmers and the duping of consumers. They allow for words like 'made in Australia' to be twisted and contorted to be effectively meaningless, in many cases.

We know that the hepatitis A outbreak also highlighted our inadequate food-safety regime, set up by FSANZ and carried out, in part, by the agriculture department. For several years, the European Union, Canada and the US have seen similar hepatitis A contamination scares linked to imported frozen berries, and yet authorities here sat on their hands. As country-of-origin labelling reforms are hammered out in coming weeks, we need to keep in mind absurd situations like one heard by the Senate select committee inquiry into food processing. Fish
caught in the Atlantic Ocean by a South Korean flagged ship was sent to China for processing and then to New Zealand for further processing. It was then sent to Australia, where it was crumbed, packaged and sold to an unsuspecting public as 'made in Australia' fish. That misled consumers and cheated local Australian-made fish producers.

The details are yet to emerge of what the government is proposing but, apparently, a diagram will be used and consumers will be told what percentage of the product is from Australia. It sounds like a positive step. We must resist the lobby in this, and I urge Senator Carr to consider this.

If we have decent food-labelling laws, if they are practical, if they are workable, then we will see increased employment in the sector. More Australians will be employed in the manufacturing sector. The sorting of 'Made in Australia' labels, using the packaging trick, is common and it has to stop. Including packaging as part of the value is wrong.

Orange growers in the Riverland are being sold down the river by juice processors who, after transport costs, pay zero, zilch, a crate for Australian oranges. My friend Ron Gray from the Riverland, who has been a passionate advocate for this issue, has made this point on many occasions. He recently had a situation where he got nothing for his oranges after transport costs to the processors were taken into account. That is wrong. The processors juice the oranges, mixing the juice with cheap imported concentrate sometimes, and then sell it to supermarkets as made in Australia because it was packaged here.

The government could move today to set up an internet site to instantly update the country-of-origin status of all imported food in Australia. That would not be difficult. It could be done. Logistically, it gets away from the arguments of the Australian Food and Grocery Council, who have been too powerful in this. We have the information available to do it but we just have not done it, and we need to do so. These are important issues that must be dealt with. If there is some political will, we can at least give consumers that instant access online, as an interim measure. That in itself would be very powerful, because I believe the media will pick up on those juices, those foods, that do not have as much Australian content as we thought they did by virtue of the misleading 'Made in Australia' label. Real choice would be placed in the hands of Australians for the first time—the choice to buy on quality and safety ahead of price alone. In many cases we can compete well in relation to that. We need to bite the bullet on this for Australian farmers and consumers alike. We need to reform our food-labelling laws as a matter of urgency.

**Senator WILLIAMS** (New South Wales) (16:16): I would like to contribute to this matter-of-urgency debate on country-of-origin food-labelling laws. For 20 years I have been on this issue of proper country-of-origin labelling. Back in the early nineties, when the Hawke Labor government allowed the importing of pig meat from places such as Canada and Denmark, the meat was brought into Australia and processed into ham and bacon, and they put on the package 'Manufactured in Australia'. Australians thought they were eating Australian-grown pork. I was a pig farmer, along with my brother Peter, and we suffered immensely because of that allowance of the importing of pig meat and the totally confusing labelling systems that we have now had for decades in this country.

I want to make a point here. I hope those opposite support what Prime Minister Abbott and Minister Joyce announced last week, but I was concerned about Senator Cameron's interjections in question time today when I asked a question to Senator Abetz about foreign
investment and the buying of Australian farms. My second supplementary question was about Minister Joyce debating Shadow Minister Fitzgibbon. Shadow Minister Fitzgibbon said, 'I'll debate you anywhere, anytime,' or words to that effect. So Minister Joyce said, 'Woolbrook, up in the New England Range.' Senator Cameron's interjection was, 'He's gone to the wilderness!' The New England Range is a wilderness? It is a highly productive agricultural region of our nation. It produces a lot of beef and a lot of lamb. There is good stock-carrying capacity in that land. For someone to say it is a wilderness, especially someone who is the Labor duty senator for New England—I am sure the people of New England would not be impressed to hear that comment.

But back to this labelling issue: as I said, for 20 years I have pursued this. At recent hearings into the labelling of seafood, the Senate Rural and Regional Affairs and Transport References Committee heard that Australis barramundi is actually farmed in Vietnam. Barramundi is a sought-after delicacy that Australians so like to eat. Barramundi is an Aboriginal name. You would think Australis barramundi would be Australian grown. No. It is actually farmed in Vietnam. It is misleading, and thank goodness the ACCC are looking at that now.

Seventy per cent of the seafood we eat comes from overseas. We were told by Matthew Evans, in evidence at Sydney, in relation to overseas fish farms:

I was on a fish farm in China. We went and had a look at fish growing in tanks, then we went out to the farms and they were telling me how good it was. But when I was at the farm there were cigarette butts, an oil slick, polystyrene floating through the farm and dogs guarding the farms were defecating in the water next to the farm. That concerns me. That system would not be an applicable system for us to have in Australia. I have also been to fish farms in Tasmania, inland New South Wales and various places, and seen the system we have here. So, yes, they are not up to standard compared to Australia.

As a fifth-generation farmer, I am very proud of the clean, green food we produce in this nation. We have an excellent reputation here in Australia and right across the world. That is why we have got the huge increase in the demand for our beef and our dairy products, for example.

I will give another example. The honey industry has been hammered by overseas products, particularly from Turkey. The honey industry even did their own testing to prove that a lot of it was only corn syrup, and the ACCC eventually acted, after I started raising it with them. This resulted in a company paying penalties totalling $30,600 after getting three infringement notices in relation to 'Victoria Honey'. You would think, seeing Victoria Honey on the shelf, 'That's honey produced down there in Victoria by our great hardworking beekeepers.' No. It was corn syrup brought from Turkey. This is where the whole labelling system is so misleading. The ACCC also took the company to task for representing the product as originating from Victoria, Australia, when in fact, as I said, the product was from Turkey. Here is another case. Bera Foods paid a penalty of $10,200 because the ACCC considered that, by using the word 'honey' and including a map of Australia on the label, it misrepresented the product as Australian honey, when in fact it was mainly sugars and came from Turkey. This is just crazy.

Back to the fishing industry in the Northern Territory—and Senator Sterle chaired that committee inquiry: when the people of the Northern Territory were informed, because it became law, of what they were eating in the fish and chip shops, in the restaurants,
everywhere, and whether it was Australian or imported fish, then guess what: the sales of Australian-grown fish from the barramundi farm up there went through the roof. Their production has gone up, their jobs have gone up, their income has gone up, and no doubt the tax take for Canberra will be going up, because people are not being fooled by the Australis barramundi farmed in Vietnam. They are actually being told the truth. We need to bring that system in right across the nation. Have the blackboard out at the fish and chip shop. Let them know whether they are selling Australian grown fish or fish from overseas.

The current system can be so confusing and misleading. As I said, for 20 years I have seen that there is a need for change in this position. The sooner these laws get into place, the better. We have to give business time, in my opinion, to use up their old labels—say, 12 months—but let them bring in a system where, when people go shopping, they can clearly see whether the food they are about to eat was grown in Australia, is fully imported or is a blend of both. The labelling system as it is now is simply confusing.

I organised a meeting in Sydney probably 18 months ago, with Choice, New South Wales Farmers, AUSVEG et cetera, trying to get common ground through representatives of those groups I just mentioned. Yes, it is difficult, but if we keep it simple then we can get a system in place so that, when Australians go shopping, they know what they are buying. On imported product, the print needs to be greater. Sometimes it is hidden. Often you finish a meal and you might pick up a container and realise where it is made, and you think, 'I never knew that.' The name often is misleading so that they can get market share here. Of course, many of the big supermarkets are buying this product for one reason: more profit margin. It is as simple as that. Let's have a good labelling system, support Australian farmers and buy Australian.

Senator STERLE (Western Australia) (16:23): I too look forward to making my contribution on this urgency motion. This is an interesting topic. It has been going on in this place and states' houses for years and years and years. In fact, it is one of those conversations, believe it or not, that can be a barbecue stopper. The amount of interest is amazing. When you talk to ordinary Australians—and I know that is a challenge for us here, but we are outside talking to ordinary Aussies—it is of major importance. Aussies want to know where their food comes from.

I just want to touch on the announcement by the Prime Minister, Minister Joyce and Minister Macfarlane the other day. I have to say that at least they are going to do something, but the political blowtorch has been put to them. I have been on the record numerous times as chair of the Rural and Regional Affairs and Transport legislation and references committees, through government and opposition, that I have absolutely no faith in our labelling laws—none at all. I have not hidden that. Maybe I could have used different words, but when all is said and done it is a load of bull. Our labelling laws are absolutely disgraceful, as is how governments all over the country have allowed this to go on.

They have had no political guts to take this on, because there is this massive lobby. The Food and Grocery Council are the leaders of this debate, ably backed and supported by the Australian Chamber of Commerce and Industry. There is a common thread there, and it is their CEO, or previous CEO, Ms Kate Carnell. She has been a real advocate for not having any truth in labelling. She has not hidden that, and I have numbers of quotes where she has come out and called it unnecessary red tape or knee-jerk reactions. Well, when 21 people
come down with hepatitis A, I do not think it is a knee-jerk reaction when the people of Australia say, 'Hang on; all we want is informed choice.'

The majority of us in this place who have had discussions, arguments and blues over food labelling in Australia are not anti bringing in food from overseas, because we have to remember that 70 per cent of the seafood that we consume is imported. So we are not against it. All we want is for the consumers to be able to make an informed decision. We want consumers to walk into a restaurant, a pub, a bar, a takeaway food outlet, a cafe or the supermarket, be able to pick up a menu or product, and actually know that it is not lying—if it says it is Australian made, it is Australian made. You know what? If 90 per cent of it is not Australian made, tell the people where it has come from.

I want to talk about something that Senator Williams touched on. Senator Williams, Senator Xenophon, Senator Bullock, Senator Lines, Senator Whish-Wilson and I had a couple of hearings in the seafood inquiry, one in Sydney and then one in Darwin. The common thread that came through was that the seafood industry support labelling—putting on there that it is either Australian seafood or imported. We are not worried which river or farm it came out of or what part of the world it came from. All we want is for the consumer to know where that piece of fish, prawn fritter, crabstick or whatever it may be came from.

I thank my fellow senators, because the report that we came out with was a work of collegiate style. There were no blues. We were all in agreement, because in our committee we take forward this belief: we want to do what is best for Australia. We are not interested in the stupid little political games that are played on some committees. Some of the committees, unfortunately, get tangled up in that. We do not, and the proof is in our reports and in our work. We might argue amongst ourselves and we will get into it, but at the end of the day we want what is best for our country.

So it was a decision of the committee when I suggested to them, 'Why don't we go up to the Northern Territory?' because the Northern Territory has mandated laws that say, 'You must state where this seafood came from.' We travelled up there, and we wanted to meet with people who were opposed when it was originally brought in—in about 2009, I think—at the previous government. I think it was the previous Labor government that brought it in, but it does not matter if it was Labor or Liberal; it is there, and it is a great thing.

So we met with the Australian Hotels Association, who were adamantly opposed to mandated or compulsory labelling of seafood. We also met with fish and chip shop owners, restaurateurs and bar owners. There were a number of very impressive people, but I want to mention one person in particular. I think he had about seven or eight seafood outlets in the Northern Territory. Of course, part of the argument that always came through for why you could not change it was that it would be too hard; it would be red tape. This was Mr Jason Hanna. He said that at the time he was opposed, but he said quite clearly that it is absolutely no big deal to just add the word 'Australian' or 'imported'.

When you look at a lot of fine restaurants, they may have that wonderful menu, and you think that could be hard work. It is no different from the evidence that we took from Mr Simon Matthews, the owner of Pee Wee's at the Point, the top-notch restaurant in Darwin. What they all came out and said was that the best thing they did for their businesses, their consumers and their clients was to actually tell them where that seafood came from. They said that, when people would walk into the high-class restaurant, the fish and chip shop, the cafe
or whatever and look at the menu, they expected to pay an extra dollar or two or three for that piece of fish, but when they found out it was Australian they all said, to a one, they were happy to do that. They were happy to be given the opportunity to make that choice, and that choice flowed through in sales boosts. Everyone we spoke to said that it has been fantastic; they wished it was done all over the place. That led the committee to its one recommendation: this system must be implemented throughout the country.

The committee visited Woolworths in Palmerston. I have had some blues with Coles, don’t worry about that, and they will continue, but Woolworth and Coles actually put the signs on the trays of fish, prawns and oysters—whatever it was—showing where they are from. When we visited that supermarket and we went to the seafood counter, there were about eight trays of seafood product. Of the eight trays, six were Australian and two were imported. The manager of the Woolworth store in Palmerston said to us, ‘The proof is there, because Australians want Australian seafood.’ Those who do not want Australian seafood, for whatever reason, have the choice to take the cheaper option.

It is not only that. When we are buying Australian seafood, let us not forget about health and safety, but we are also proudly talking about Australian jobs. I have to tell you: I cannot see any downside when we are promoting Australian farmers, horticulture, agriculture and all the service industries that bounce off, hang off or rely on these valuable industries to our nation. Why should we duck and dive? Why should we be scared of the Australian Food and Grocery Council, led by Ms Kate Carnell and whoever else, or the Australian Chamber of Commerce and Industry because of red tape? This is a load of nonsense.

One of the one-liners we took from our inquiry in Darwin was from a very influential man in the Northern Territory seafood industry, Mr Bill Passey. Mr Passey is actually a West Aussie, but he started up Australia Bay Seafoods. I think they have five or six boats operating out of Darwin. Mr Passey said that they do all the hard work. They go out there and make sure that the stocks are sustainable and the industry is sustainable. They make sure they are employing Australians on their boats, on the wharf, waiting to get the freight off, and in their fish factories. They pay their taxes in Australia. They comply with all the environmental regulations and everything that goes with them. But he said that they are absolutely let down once they shut the truck doors and that product leaves. He said they get no support. There is no support for Australian jobs. When the Australian Chamber of Commerce and Industry and the Food and Grocery Council are running this ridiculous scare campaign, we should not put any more burden on business. The Prime Minister himself was running that until last Friday. Thank goodness he has had a change of heart. It is amazing what happens when the political blowtorch goes on you. I want to make sure that we can make our food and our consumption choices ourselves with informed debate—but do you know what? I proudly stand here and say I cannot think of anything better than Australian farmers getting a fair crack. I could not think of anything better than Australian fishermen getting a fair crack.

It just irks me. We do not need any more inquiries. I know the Prime Minister and the ministers have called for inquiries. We have had numerous inquiries. This building has been swamped with food inquiries. There were inquiries in 2011, 2012 and 2013, there were two in 2014 and now we are going to have another one. We do not need any more. Get the fan out, walk into the tabling office, blow the dust off the reports we have there and bloody read them.

The ACTING DEPUTY PRESIDENT (Senator Bernardi): Thank you, Senator—
Senator STERLE: Hang on, that slipped out. I withdraw that. Mr Joyce, just read the reports that are already there.

The ACTING DEPUTY PRESIDENT: Thank you, Senator Sterle, for withdrawing and thank you for your contribution.

Senator SIEWERT (Western Australia—Australian Greens Whip) (16:33): I rise again in this place to talk about country of origin labelling. One of the first debates I contributed to in this place was on a bill that Senator Bob Brown put before the parliament on the same issue: country of origin labelling. It is absolutely essential that Australians are able to make an informed choice on the products they are buying. There has been no better example than the debacle over berries over the last week or two of why people need to be able to make an informed choice. The contamination of berries issue has served to highlight, yet again, the inadequacies of our food regulatory system. Not only did the food authorities here know of the hepatitis A contamination in America and Europe; they did not take any action over here. There was no thought that we had to improve our regulatory processes here.

Australians were last week shocked to hear that 29 further importers were bringing in Chinese berries. They are not from the same food-processing centres—I acknowledge that—but we found out during estimates that those other processing centres have not been inspected. Food Standards Australia New Zealand is carrying out further risk assessment, but that will take 'some weeks'. The officials were not able to tell us when that risk assessment will be done. Have our regulatory bodies increased the level of assessment of berries as they are coming in as a result of the fact that we have had a contamination and 19 people now—another case emerged on Friday—have been infected with hepatitis A? No, they have not. Australians need to be able to read the labelling on the packages of the food that they are buying so they can make an informed choice. Where have these berries come from? Have they been imported? If so, where from? Have they been grown in Australia? Have the manufactured products that contain berries been manufactured with products grown in Australia or products grown overseas?

As has been articulated during this debate, the food-labelling bill could improve the trust between producers and consumers. It would make consumers more confident of what they are buying by simply reading the package. They would know whether it is grown in Australia, manufactured in Australia or simply processed in Australia. Until Australians can be absolutely confident of what they are buying, there is a sense of concern and mistrust about the safety of the food they are buying. Until our regulatory processes and the government can guarantee that they have done everything they can to ensure the safety of our food, people will be distrustful of what they are buying and what is outlined on the package of the goods they are buying.

Our food safety system in Australia needs some significant work before Australians can be very confident that the food they are buying is actually safe to consume. One of the key ways to do that is country-of-origin labelling. There is now a bill from the Greens and Senator Xenophon that is currently before this place. As has also been articulated in this place, we do not need any more inquiries or any more consultation about the fact that this bill is long overdue. Australians want it. The government does not need to consult any more: look at this bill and support this bill. They can do what they say they want to do, which is to give consumers confidence about what they are buying.
Senator CANAVAN (Queensland) (16:37): I want to start this afternoon by complimenting the Greens. I think I have probably been here for seven months and I have not said a kind word about the Greens, so it is remiss of me! But I do want to pay them a compliment this afternoon because I think the urgency motion they have put forward today is a very good one, a very timely one and a very urgent one.

It is good to see senators bringing issues to this chamber that are policy related—that are the issues that the people in Australia want us to talk about—issues they have wanted action on from us for years. This one is a very important issue and I am glad to see the government took some action last week. I do hear what Senator Siewert has to say, that we have been waiting years for this and why can we not do it tomorrow? Well, the government has announced precisely what it will do. Of course, now it has to make sure that those designs are put in place and that the appropriate regulations are made. In my understanding, that will be happening within months and not years, so that is a great thing.

I will get to the detailed design in a second, but I wanted to start by saying that this is not just something that Australians want, it is something that everybody everywhere wants. They want to know where their food comes from. It is an increasing issue across the world, where we now have a global food marketplace. Not that long ago, most of the food we would have eaten would have come from not that far from our homes. But now, with refrigerated transport and global supply chains, the food that we eat can come from all around the world and people want to know where their food comes from.

Last year I was in China, and people in China want to know where their food comes from. They really want to know. When you walk into a Chinese supermarket you can see that they have different sections for different countries, it is clearly labelled and you actually understand what you are buying and where it comes from. If you go to our supermarkets here in Australia it is a complete melange—a complete pot pourri. You have very little idea of where your food comes from. The labels are confusing and there is significant vagueness and also get-out clauses from the safe harbour provisions which currently exist in our country-of-origin food-labelling laws, and that creates confusion for consumers. And when there is confusion, people ignore it; when they do not understand what is on the front of their product they do not read it. When it is not clear, people do not worry about using it.

In the last couple of decades in Australia we have greatly improved the information about what is in our food, whether it is how much salt is in there, how much sugar is in there or how much energy is in our there; with pretty much everything you pick up these days you can see it has the same table with the same information across a variety of processed and non-processed foods. We need something similar in this area as well.

Because that information is consistent people can pick up a box of cereal or pick up a chocolate bar, look at that table and actually use it. I think the Blewett review, which came out a couple of years ago, found that that table of information was used increasingly by consumers because it was consistent across products and it was easy to understand.

We need something similar in country-of-origin food labelling because we do not have an easy-to-understand model at the moment. That is why both the industry minister, Ian Macfarlane, and the agriculture minister, Barnaby Joyce, have both said that we need a system that people can see easily and work out when they pick something up so that they know whether it is Australian or not. We are going to put something like a pie chart or a circle
on labels—it sounds very technical, but it will be very easy to understand—and how much it is coloured in will tell you how much comes from this country. So, if it is all coloured in then it will be 100 per cent Australian grown and produced; if it is 50 per cent Australian grown then half the circle will be coloured in; and if there is no circle at all then there will be less than 50 per cent or no Australian produce. That is very easy to understand and it will give our farmers and our food manufacturers a clear, identifiable marketing tool for them to advertise to consumers that if they want to buy Australian and to support Australian farmers that they know what to look for in the supermarkets.

For those products that come imported, there will be labelling requirements about text that they will have to put on their products—where it came from or what market it was produced in. That text will have to be 30 to 50 per cent larger than the surrounding text to make sure that there is not a fine print issue.

So, the details are there. Some senators have said that we do not need any more inquiries, that we can just act tomorrow. Well, in fact, the government has already made it pretty clear what it wants to do. Obviously, we now need to define that in detail in law. We have to go through the proper processes of government, which include taking a submission to cabinet and consultation with the backbench. I presume there will also be a form of committee review in this place; I do not think that something like this would come in without some consideration by the Senate as well. So all those things must be done and they should be done properly. But it is a great win for those who have been calling for this for some time, that we finally have action. It is unfortunate that sometimes you need to have—a crisis in the last couple of weeks—an incident to pressure people to change. Sometimes that is the way it has been and it has probably always been thus.

I have not been involved myself, but I do want to pay tribute to people like Senator Siewert, Senator Sterle and Senator Williams, who sits next to me here, and Senator Madigan too. They have been working through these issues for years and, because they put good ideas on the table, when last week’s incident occurred with frozen berries those were the ideas that were picked up and taken up by the government. So I congratulate them and I look forward to these new requirements coming into place.

Senator MADIGAN (Victoria) (16:44): Food-labelling laws in this country have decayed to such a point that Australians want action from their elected leaders. Australians have a right to know what food comes into this country and the circumstances under which it comes. They have a right to know if the product they are purchasing was imported from overseas or grown by Australian farmers. For too long, imported food products—and I say this deliberately—have been shoved down our throats. For far too long importers have been feeding off inadequate food-labelling laws to fool the consumers into purchasing their products.

Why is it that the government is determined to be an apologist for foreign imports at the expense of Australians’ health—not to mention jobs? It is time the Australian government started putting Australian consumers, farmers and food processors before free trade agreements. Australian farmers pay fair wages, adhere to strict safety standards and persevere under extremely difficult circumstances, but they are being stymied by cheaper, substandard imports. Introducing better food labelling laws will give Australian farmers the level playing field they deserve to survive in a market swamped with cheaper-yet-inferior products.
When Australian consumers buy food which is grown and produced in Australia, it is better for the economy, better for the environment and better for the health of Australian families and individuals. It is the most sustainable option. I strongly believe most Australians recognize this and want to do the right thing by Australian farmers and food processors. The problem is that, when people encounter the amount of information on the back of food packaging, they often find they have bitten off more than they can chew. You should not need to be a Rhodes scholar to be able to work out where your food comes from.

Solid food labelling laws provide Australians with a choice: a choice between berries with hepatitis A or just vitamin C, a choice between meat with *E. coli* or simply meat with the standard three veg. This government must implement substantial country of origin food labelling legislation to protect public health, Australian farmers and jobs. The issue is not a laughing matter. Too much is at stake.

**Senator LAMBIE** (Tasmania) (16:46): The motion is:

The need for the Abbott Government to Immediately implement Country of Origin food labelling legislation to protect public health and Australian farmers.

I acknowledge the good work of the Greens have done in bringing this important matter before this parliament not only today but for many years.

There is no doubt that a crisis has developed around the country of origin food labelling matter, and the recent infections of Australian people with hepatitis A from imported and frozen berries has given a sharper focus to this matter. I still cannot understand why Australians would want to buy berries from overseas countries when you could buy fresh berries from Tasmanian or other Australian state. Perhaps people were fooled into thinking that the berries which came in a package branded with the name of Nanna's were from Australia.

Nanna is a very Australian term, and I have to acknowledge that it is a brilliant piece of marketing. Just saying the name 'Nanna' for many people causes wonderful warm, secure and loving memories to come to mind. Such is the power of a word which reminds us of people in our lives who had such a positive impact on our lives. Whenever Nanna cooked for us or gave us anything, it was good, it was healthy and it was safe. No Australian would ever expect to get hep A from any food that Nanna gave us. Now we have products from overseas that are labelled 'Nanna', but our overseas nanna has pooed in the food.

How did this situation develop? This government has allowed an imported food testing and safety system to develop which tests imports for pesticides and chemicals but fails to test for microbial or bacterial danger such as hep A et cetera. How did that happen? If you ask any primary producer or fisher and say, 'How do we help you compete against imported products?' they will all say, 'Make sure that imported product is subjected to the same food safety standard checks that Australian grown products have to go through.'

And this speaks to the core of the problem. If the consumer knows that it is an Australian product manufactured and packaged here under our industrial relations laws and food safety standards, they will buy it. At the moment we have all these overseas products pretending to be Australian, and successive governments have allowed this injustice to continue. So today, on behalf of Tasmanians, I say enough is enough. Let's take the first step and introduce clearer labelling for all the foods on our supermarket shelves.
In closing, I would highly recommend you look at Tasmanian fruit, vegetable and produce. It is the freshest, tastiest, cleanest food in the world, and I would know because I am a very proud Tasmanian.

Question agreed to.

DOCUMENTS

Tabling

The following documents were tabled pursuant to standing order 61(1)(b):

DOCUMENTS TO BE PRESENTED BY THE PRESIDENT

1 Commonwealth Ombudsman—Report for 2013-14 on the Ombudsman's activities under Part V of the *Australian Federal Police Act 1979*

2 Privileges—Standing Committee—160th report—The use of CCTV material in Parliament House—Response by the President of the Senate

Reports of the Auditor-General

6 Auditor-General—Audit report no. 24 of 2014-15—Performance audit—Managing assets and contracts at Parliament House: Department of Parliamentary Services

GOVERNMENT DOCUMENTS

7 Attorney-General's Department


8 Attorney-General's Department


9 Department of Infrastructure and Regional Development


10 Attorney-General's Department


11 Attorney-General's Department

Copyright Agency – Annual Report 2013-14 – Section 135ZZD and 183D of the *Copyright Act 1968* and section 37 of the *Resale Royalty Rights for Visual Artists Act 2009* (8 January 2015/8 January 2015)

12 Attorney-General's Department


13 Department of Immigration and Border Protection
Reports by the Commonwealth and Immigration Ombudsman – Section 486O of the
Migration Act 1958 [Personal identifier: 1001356, 1001484, 1001486, 1001487,
1001488, 1001525, 1001534, 1001537, 1001538, 1001550, 1001561, 1001569,
1001570, 1001577, 1001583, 1001613, 1001625, 1001628, 1001632, 1001634,
1001645, 1001646, 1001648, 1001661, 1001662, 1001663, 1001679, 1001698,
1001721, 1001759, 1001781, 1001787, 1001788, 1001819, 1001820, 1001821,
1001832, 1001852, 1001853, 1001853, 1001876, 1001884, 1001910.] – Section 486O of the
Migration Act 1958
(11 February 2015 / 11 February 2015)
14 Department of Immigration and Border Protection
15 Treaties
Major Treaty Actions: Category 1
[2014] ATNIF 7
[2014] ATNIA 4
World Trade Organization (WTO) Agreement on Trade Facilitation: Protocol Amending the Marrakesh Agreement Establishing the World Trade Organization (including the Agreement on Trade Facilitation annexed to that Protocol)
[Agreement on Trade Facilitation originally adopted at Bali on 7 December 2013; Protocol adopted at Geneva on 27 November 2014]
[1995] ATS 8
16 Department of Agriculture
(1 December 2014 / 5 December 2014)
17 Department of Agriculture
Report to the Parliament in relation to the Statutory Funding Agreement 2013-17 (funding contract) with Dairy Australia Limited (DAL) – Section 14 of the Dairy Produce Act 1986
(1 December 2014 / 5 December 2014)
18 Department of Agriculture
(15 January 2015 / 6 February 2015)
List prepared by the Department of the Prime Minister and Cabinet.
Documents tabled in the House of Representatives on Thursday, 12 February 2015
Documents tabled in the House of Representatives on Monday, 23 February 2015
Documents tabled in the House of Representatives on Wednesday, 25 February 2015
Documents tabled in the House of Representatives on Thursday, 26 February 2015
* Not available prior to tabling
Note: As recommended by the Senate Standing Committee on Finance and Public Administration,
any dates listed in brackets at the end of certain reports indicate the date on which the report was submitted to the minister and the date the report was received by the minister, respectively.

**DOCUMENTS PRESENTED OUT OF SITTING SINCE 12 FEBRUARY 2015**

**Government documents** (pursuant to Senate standing order 166)

20 Official witnesses before parliamentary committees and related matters—Government guidelines, dated February 2015. [Received 18 February 2015]

21 Department of Finance—Campaign advertising by Australian government departments and agencies—Report for 2013-14. [Received 19 February 2015]

22 Productivity Commission—Report No. 73—Childcare and early childhood learning (2 volumes), dated 31 October 2014. [Received 20 February 2015]

**Reports of the Auditor-General** (pursuant to Senate standing order 166)

23 Audit report no. 22 of 2014-15—Performance audit—Administration of the Indigenous Legal Assistance Programme: Attorney-General's Department. [Received 17 February 2015]

24 Audit report no. 23 of 2014-15—Performance audit—Administration of the Early Years Quality Fund: Department of Education and Training; Department of Finance; Department of the Prime Minister and Cabinet. [Received 17 February 2015]

**Statements of compliance with Senate orders** (pursuant to Senate standing order 166)

25 **Indexed lists of departmental and agency files** (continuing order of the Senate of 30 May 1996, as amended on 3 December 1998)
   - Agriculture portfolio. [Received 24 February 2015]
   - Australian Public Service Commission. [Received 24 February 2015]
   - Finance portfolio. [Received 18 February 2015] Safe Work Australia. [Received 24 February 2015]

26 **Lists of contracts** (continuing order of the Senate of 20 June 2001, as amended on 27 September 2001 and 18 June, 26 June and 4 December 2003)
   - Agriculture portfolio. [Received 25 February 2015]
   - Attorney-General's portfolio. [Received 27 February 2015]
   - Communications portfolio. [Received 16 February 2015]
   - Defence portfolio. [Received 27 February 2015]
   - Department of Human Services. [Received 27 February 2015]
   - Employment portfolio. [Received 27 February 2015]
   - Environment portfolio. [Received 13 February 2015]
   - Finance portfolio. [Received 20 February 2015]
   - Foreign Affairs and Trade portfolio. [Received 25 February 2015]
   - Immigration and Border Protection portfolio. [Received 19 February 2015]
   - Infrastructure and Regional Development portfolio. [Received 26 February 2015] Treasury portfolio. [Received 27 February 2015]

27 **List of departmental and agency appointments and vacancies** (continuing order of the Senate of 24 June 2008, as amended)
   - Attorney-General's portfolio. [Received 13 February 2015]
   - Communications portfolio. [Received 16 February 2015]
   - Defence portfolio. [Received 13 February 2015]
   - Department of Agriculture. [Received 18 February 2015]
Department of Social Services. [Received 23 February 2015]
Department of the Prime Minister and Cabinet. [Received 13 February 2015]
Department of the Prime Minister and Cabinet—Indigenous affairs group. [Received 18 February 2015]
Education and Training portfolio. [Received 13 February 2015]
Finance portfolio. [Received 18 February 2015]
Foreign Affairs and Trade portfolio. [Received 16 February 2015]
Health portfolio. [Received 13 February 2015]
Immigration and Border Protection portfolio. [Received 19 February 2015]
Infrastructure and Regional Development portfolio. [Received 13 February 2015]
Treasury portfolio. [Received 17 February 2015]
Veterans’ Affairs portfolio. [Received 18 February 2015]

28 Lists of departmental and agency grants (continuing order of the Senate of 24 June 2008)
Attorney-General’s portfolio. [Received 13 February 2015]
Cancer Australia. [Received 18 February 2015]
Communications portfolio. [Received 16 February 2015]
Defence portfolio. [Received 13 February 2015]
Department of Agriculture. [Received 19 February 2015]
Department of Education and Training. [Received 13 February 2015]
Department of Health. [Received 19 February 2015]
Department of the Prime Minister and Cabinet. [Received 13 February 2015]
Department of the Prime Minister and Cabinet—Indigenous affairs group. [Received 18 February 2015]
Department of Veterans’ Affairs. [Received 18 February 2015]
Environment portfolio. [Received 13 February 2015]
Finance portfolio. [Received 18 February 2015]
Foreign Affairs and Trade portfolio. [Received 13 February 2015]
Immigration and Border Protection portfolio. [Received 19 February 2015]
National Health and Medical Research Council. [Received 13 February 2015]
Organ and Tissue Authority. [Received 13 February 2015]
Social Services portfolio. [Received 23 February 2015]
Treasury portfolio. [Received 17 February 2015]

29 Statements of departmental and agency unanswered estimates questions on notice (continuing order of the Senate of 25 June 2014)
Australian Trade Commission. [Received 13 February 2015]
Communications portfolio. [Received 16 February 2015]
Department of Foreign Affairs and Trade. [Received 13 February 2015]
Department of Human Services. [Received 13 February 2015]
Department of Social Services. [Received 13 February 2015]
Education and Training portfolio. [Received 13 February 2015]
Export Finance and Insurance Corporation. [Received 13 February 2015]
Health portfolio. [Received 25 February 2015]
Infrastructure and Regional Development portfolio. [Received 23 February 2015]
Immigration and Border Protection portfolio. [Received 19 February 2015]
Industry and Science portfolio. [Received 13 February 2015]
Prime Minister and Cabinet portfolio. [Received 19 February 2015]
Special Minister of State. [Received 18 February 2015]
Tourism Australia. [Received 17 February 2015]
Treasury portfolio. [Received 23 February 2015]
Veterans’ Affairs portfolio. [Received 18 February 2015]

reports and responses will be recorded in the Journals of the Senate and available for consideration on Tuesday under standing order 62(4)]

Committee reports (pursuant to Senate standing order 38 (7))
30 Economics Legislation Committee—Competition and Consumer Amendment (Misuse of Market Power) Bill 2014—Report, dated February 2015, Hansard record of proceedings, additional information and submissions. [Received 26 February 2015]
31 Intelligence and Security—Joint Statutory Committee—Telecommunications (Interception and Access) Amendment (Data Retention) Bill 2014—Advisory report, dated February 2015. [Received 27 February 2015]

Government response to parliamentary committee report (pursuant to Senate standing order 166)
32 Foreign Affairs, Defence and Trade References Committee—Report—Korea-Australia Free Trade Agreement. [Received 23 February 2015]

The response read as follows—

Australian Government response to the Senate Foreign Affairs, Defence and Trade References Committee report:

Korea-Australia Free Trade Agreement

This is the Australian Government’s response to the Senate Foreign Affairs, Defence and Trade References Committee’s report on the Korea-Australia Free Trade Agreement (KAFTA), tabled on 1 October 2014.

The Government welcomes the Committee’s final recommendation and also the additional recommendation of Coalition senators that prompt binding treaty action be taken in relation to KAFTA. Australia has completed its domestic treaty-making processes and following an exchange of notes with the Republic of Korea on 3 December, KAFTA entered into force on 12 December 2014.

The issues raised in the Committee’s other recommendations were addressed extensively in the appearance before the Committee of senior officials on 9 September 2014, as well as in responses to questions on notice. The following responses to the various recommendations by Committee members have been prepared on a whole-of-government basis:

Recommendation 1 (paragraph 5.8)

The committee recommends that the Australian Government initiate discussions with Korea to omit or, in the absence of agreement, narrow the scope of the investor state dispute settlement provisions within the treaty, to be formalised by a subsequent side letter. Discussions on narrowing the provisions should include consideration of:

- a narrower definition of 'expropriation';
• a non-exhaustive list of public policy areas covered by the term 'legitimate public welfare objective';
• limitations as suggested by French CJ, or as subsequently formally recommended by the Council of Chief Justices; and
• that the parties promptly establish a bilateral appellate mechanism as envisaged in Annex 11-E of the agreement.

Response
The Government does not accept this recommendation.

The investor-State dispute settlement (ISDS) provisions in KAFTA include appropriate carve-outs and safeguards for public welfare regulation including with regard to health and the environment. These modern safeguards have been developed in response to concerns raised by ISDS claims under earlier agreements. There are considerably more explicit protections for public welfare regulation in KAFTA than the vast majority of Australia's agreements which contain ISDS. In comparison to other agreements containing ISDS, KAFTA is among the most protective treaties in existence worldwide in terms of its protections for legitimate regulation. It is important to note that Australian investors in Korea will also be able to use the ISDS mechanism, under the same conditions, to protect their investments.

The Government notes the specific recommendations made by the Committee but does not agree that it is necessary or desirable to seek to renegotiate these provisions with Korea.

With regard to the recommendation to promptly adopt a bilateral appellate mechanism the Government notes that Australia and Korea recognise in KAFTA that an appellate mechanism to review ISDS awards may be desirable. However there are a number of issues to consider including how any such appellate mechanism should be designed and how it would impact on the existing ISDS mechanism. The timeframe for consultations in Annex 11-E gives the Parties time to consider these issues further.

Recommendation 2 (paragraph 5.15)
The committee recommends that the Australian Government should not agree to include investor state dispute settlement mechanism in future trade agreements.

Response
The Government does not accept this recommendation. The Government's policy is to consider the inclusion of ISDS mechanisms in trade agreements on a case-by-case basis.

Recommendation 3 (paragraph 5.23)
The committee recommends that the Australian Government:
• provide clarity on proposed changes to copyright and assurance that any proposed changes as a result of the Korea-Australia Free Trade Agreement will not create adverse impacts for intellectual property owners or users;

Response
On 10 December 2014, the Government announced new measures to address online copyright infringement. These measures include the development of an industry code which, consistent with the obligation in 13.9.29 of KAFTA, would provide for notifying consumers when a copyright breach has occurred. The Government will also amend the Copyright Act, to enable rights holders to apply for a court order requiring ISPs to block access to a website, operated outside of Australia, which provides access to infringing content.

The Government has sought the least burdensome and most flexible way of responding to concerns about online copyright infringement, while protecting the legitimate interests of the rights holders in the protection of their intellectual property.
The Government has consulted key copyright stakeholders, internet service providers, consumers and the public in the development of these measures. The Government has therefore not introduced specific measures to implement KAFTA, however all copyright reform takes account of Australia's international obligations.

- retain harmony in future trade agreements by limiting intellectual property provisions to Australia's obligations under specific intellectual property related multilateral agreements only and retain policy space to make changes to Australia's domestic intellectual property laws in the future;

Response
The Government recognises the importance of retaining policy flexibility to make changes to Australia's domestic intellectual property (IP) laws in the future. In some circumstances the Government may have an interest in entering into new obligations. This may be to address problems faced by Australian business in particular markets or to further harmonise the international system. However, the Government does not seek IP provisions that inappropriately reduce flexibility to amend or change Australia's legislation or practices; that require legislative changes; or that add additional complexity to the international IP system.

The international IP system is framed by the World Trade Organization Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS Agreement) and 26 other multilateral treaties covering the different subject matter and aspects of IP law and practice. These treaties set basic standards for national IP systems and a framework for laws that provide certainty and protection for rights holders, users and the general public in the global trading environment.

Bilateral free trade agreements such as KAFTA often reaffirm commitments in multilateral agreements, but in some circumstances, may differ from those commitments as part of a negotiated outcome. However, any extension of existing obligations (e.g. to provide an additional term of protection for a particular right) will be assessed during the negotiation process and considered in light of domestic policy and legislation, and against Australia's overall interests, weighing up all factors across the entire Agreement, not just on IP.

- ensures that the potential impact of intellectual property provisions in trade agreements is properly assessed and, in particular, give consideration to the recommendations of the Productivity Commission.

Response
The potential impact of IP provisions in trade agreements is considered carefully throughout negotiations, with close attention paid to the need to balance the interests of IP rights holders (including the protection of Australian-owned IP in foreign markets), users (including intermediaries, and consumers) and the public interest. A range of stakeholder and community views are sought and taken into account during negotiations. In this context, the Government is also aware of the Productivity Commission's recommendations. The final result invariably reflects a negotiated outcome considered by Government to be in Australia's interests, weighing up all factors across the entire agreement.

Recommendation 4 (paragraph 5.26)
The committee recommends the Australian Government:

- seeks to renegotiate with Korea to preserve the right to labour market testing, noting that Korea retains this right;

Response
The Government does not accept this recommendation. The Government does not intend to seek the renegotiation of the relevant provisions of KAFTA. The final outcomes represent a negotiated outcome which reflected a balancing of various interests on both sides.
• put in place measures to more accurately track visa entrants based on free trade agreement provisions, including to monitor and record the levels of contractual service providers granted 457 visas without labour market testing;

Response
The Government does not accept this recommendation. The Department of Immigration and Border Protection does not require visa applicants to identify if they are using a free trade agreement commitment to enter the country. Following entry into force of KAFTA, the Department will be able compare the number of 457 visa applications by ROK nationals, and the number of visas granted, with the numbers prior to the agreement entering into force.

• reserves policy space in future free trade agreements to regulate labour market entry and better promote labour standards;

Response
The Government notes the Committee's recommendation. In regards to commitments on temporary entry, the Government approaches negotiating trade agreements on a case-by-case basis. In regards to regulating labour standards, this is not normally an area which is covered in free trade agreements.

• actively monitors Korea's adherence to the general principles and labour standards outlined in Chapter 17 of the KAFTA, particularly with reference to goods exported from the special processing zones on the Korean Peninsula pursuant to Annex 3-B of Chapter 3; and actively upholds these standards in various committees and consultation with Korea under the agreement.

Response
The Government notes the Committee's recommendation. Australia will implement its commitments as outlined in Chapter 17 of KAFTA on labour, including through consultations or the convening of ad hoc committees to consider any implementation issues.

KAFTA contains a provision whereby goods that are processed on the Korean Peninsula from materials from the Republic of Korea may potentially be designated in future as Korean originating goods. However, such goods would have to come from designated 'outward processing zones' and no such zones have been agreed at this time. After entry into force of KAFTA a committee will be established under Annex 3-B to review the conditions on the Korean Peninsula and possibly identify areas which may be designated as outward processing zones and no such identification or designation could be made without Australia's agreement.

Recommendation 5 (paragraph 5.28)
The committee recommends that the Australian Government addresses business concerns regarding complex rules of origin processes in KAFTA, and the lack of harmonisation with other preferential trade agreements.

Response
The Government notes the recommendation and it also notes concerns expressed by some business groups during the Committee's inquiry regarding the rules of origin processes in KAFTA.

The approach to rules of origin in KAFTA is consistent with the approach taken in Australia's other preferential trade agreements. A key criterion used to determine origin is the change of tariff classification approach, which is based on the World Customs Organization (WCO) harmonised system (HS). How these rules are presented in the Product Specific Rules schedules differs from one FTA to another. Some agreements are more complex than others.

In terms of origin documentation, KAFTA provides two options for Australian traders: a certificate of origin issued by an authorised body (currently the Australian Chamber of Commerce and Industry (ACCI) or the Australian Industry Group (AiGroup)), or a certificate of origin (self-declaration)
completed by the exporter or the producer. There is a strong international trend towards self-declaration of origin in FTAs. Self-declaration is supported by a broad range of Australian industry sectors including agriculture. It is particularly beneficial to small and medium-sized enterprises seeking to cut red tape and costs.

DFAT is working closely with ACCI and AiGroup to ensure the smooth implementation of processes relating to certificates of origin issued by Australian authorised bodies. The Government does not expect any serious problems with implementation under KAFTA. Both Korean and Australian customs authorities are familiar with implementing preferential origin requirements under existing FTAs.

Recommendation 6 (paragraph 5.30)
The committee recommends that the Australian Government provide additional resources to Austrade and peak export organisations to monitor and improve the awareness within the Australian export industry of the opportunities provided under trade agreements, as well as assistance to new exporters on how to efficiently navigate Australia's complex network of free trade agreements.

Response
The Government notes the Committee's recommendation. The allocation of resources to relevant agencies and industry organisations is a decision for the Government.

The Department of Foreign Affairs and Trade (DFAT) and Austrade work closely together to inform and prepare industry for the implementation of new free trade agreements, including KAFTA.

DFAT has developed detailed explanatory material on KAFTA, which is provided in addition to the full legal text of the agreement and the tariff schedules. These are all publicly available on the DFAT website: www.dfat.gov.au/fta/kafta. This material is also available from Austrade's website and distributed via Austrade's other promotional channels.

DFAT is working closely with Austrade on a program of activities to encourage utilisation of KAFTA by business once the agreement has entered into force. Austrade plays a significant role in assisting businesses to enter overseas markets and take full advantage of the opportunities made available by Australia's FTAs. An example of this is a six city seminar series on 'Korea and the FTA' held in November 2014 with keynote speakers being the Australian Ambassador to Korea and the Austrade Senior Trade Commissioner, Seoul.

Businesses and their representative organisations also have a role in ensuring that they are aware of the opportunities offered by FTAs and are able to take advantage of them in a way that best suits their particular operations, or the operations of their members, in the relevant foreign market. Allocating resources to these activities is a matter for the businesses or representative organisations themselves.

DFAT and Austrade have also fully briefed State and Territory officials on KAFTA and opportunities in the Korean market.

Recommendation 7 (paragraph 5.32)
The committee recommends that the Australian Government makes an interpretive declaration along the following lines in order to clarify its practice under article 21.4(4) and elsewhere in KAFTA:

This declaration is made to clarify Australia's interpretation that Committee reports will be made public under article 21.4(4). This is made also as an undertaking to the Australian public of Australia's interpretation of KAFTA as an open agreement. As a general approach at points of ambiguity in the text or where the text is silent on the matter, as in article 21.4(4), Australia will favour an interpretation that supports open and public provision of information.
Response
The Government does not accept this recommendation. It would not be appropriate for Australia to unilaterally make an interpretive declaration along the lines described.

Within one year of the entry into force of KAFTA, and thereafter as set out in the Agreement, a Joint Committee will meet to discuss a number of issues in relation to the operation of KAFTA. The Government expects that the Joint Committee will discuss the question of transparency of its work and that of the other committees established under KAFTA, at an early stage.

The Government recalls that article 21.5 of KAFTA provides that "All decisions of the Joint Committee and all committees, working groups and other bodies established under this Agreement shall be made by mutual consent of the Parties." This would apply to the release of Joint Committee reports and other documentation in relation to the operation of KAFTA.

DFAT conducts regular outreach to businesses and non-government organisations regarding the operation of its FTAs and will continue to receive and consider such submissions and questions via the KAFTA contact point.

Recommendation 8 (paragraph 5.35)
The committee recommends that the Australian Government examine reforms to increase stakeholder consultation in the preparation of National Interest Analysis documents and that the viability of National Interest Analysis documents, or parts of these documents, being prepared by an independent body.

Response
The Government does not accept this recommendation.

The National Interest Analysis (NIA) tabled in Parliament with its accompanying agreement is an official Government document advising the Parliament among other things of the essential elements of the agreement, any costs and impacts, and why the Government believes it is in Australia’s national interests for binding treaty action to be taken. For trade agreements the NIA is drafted by DFAT on a whole-of-government basis in consultation with other agencies that have taken part in the negotiations. Given the in-depth detailed knowledge required of various negotiating positions and options, it would not be appropriate for the NIA to be drafted by entities outside Government.

Through existing review processes JSCOT and other Parliamentary committees have the opportunity to consider and test the statements made in the NIA, as do external stakeholders in submissions and testimony to JSCOT and other committees.

Recommendation 9 (paragraph 5.40)
The committee recommends that prompt binding treaty action be taken in relation to the Free Trade Agreement between the Government of Australia and the Government of the Republic of Korea.

Response
Australia and the Republic of Korea have completed its domestic treaty-making processes and KAFTA entered into force on 12 December 2014.

Additional comments of Coalition senators

Recommendation (paragraph 1.4)
Response
Australia and the Republic of Korea have completed its domestic treaty-making processes and KAFTA entered into force on 12 December 2014.

Dissenting report by the Australian Greens
Recommendation 1 (paragraph 1.29)
That the Senate refuse to pass KAFTA enabling legislation until Investor-State Dispute Resolution clauses are removed from the agreement.

Response
The Government notes that this is a matter for the Senate.

Recommendation 2 (paragraph 1.30)
That the Parliament refuses to pass KAFTA enabling legislation until an independent cost-benefit analysis of the intellectual property provisions in KAFTA has been carried out and has been appropriately assessed by the Parliament.

Response
The Government notes that this is a matter for the Parliament.

Western Australia: Sharks
Consideration

Senator SIEWERT (Western Australia—Australian Greens Whip) (16:50): I rise to take note of the minister's response to the Senate motion on Western Australia's government sharks policy. I move:

That the Senate take note of the document.

I am disappointed that the minister has responded in the manner that he has in that we believe the federal government has a very clear responsibility for white sharks in Australia and in Western Australia. Given that it is a vulnerable species and therefore listed as a protected species under the Environmental Protection and Biodiversity Conservation Act 1999. In his response the minister says that the EPBC Act provides an appropriate level of discretion through an exemption in circumstances where there is an issue of national interest, ensuring exemptions are granted only in the most exceptional of circumstances. He also says it is up to Western Australia to refer the action as a matter under assessment in the EPBC Act.

Unfortunately, the serious threat guidelines that are now operating in Western Australia could in fact end up taking more white sharks than actually could have been taken under the cull, which I remind the chamber had 72 drum lines dotted up and down our coast that took a large number of tiger sharks, some rays and other by-catch and had a serious impact on our marine biodiversity in Western Australia. Under the expanded proposal that they sought assessment for, there were up to 25 white sharks to be taken.

Our EPA in Western Australia said there was not enough information, because this species was vulnerable, with which to tell whether there would be an impact and therefore not to allow it go to ahead. The Western Australian government, at the very last minute, withdrew the proposal as the government was about to hand down its environmental assessment; so that proposal was, in fact, never assessed or finalised under the EPBC Act. The federal government is now standing by while the Western Australian government implements its so-called 'serious threat guidelines' with a policy that could end up taking more white sharks than
that cull the EPA in Western Australia said should not go ahead. They stand by and grant exemptions in what can only be described as an approach that borders on vengeance.

When the drum lines were last deployed they took two sharks that may have been responsible for an attack. That was after the fact. They did not close the beach. The minister also talks about other measures to be taken first and says that deploying drum lines would be a last measure. They did not close the beach; as we understand it they closed the beach when they were deploying the drum lines, not to keep people out for any length of time, which would have been more appropriate. The government also sought to deploy drum lines just before Christmas in Warnbro Sound, where there was a spawning aggregation of salmon, so it is no surprise that great whites and other sharks were in there following the salmon. Everybody knows that is the case. It is very simple to keep people out of the water in Warnbro Sound—but instead, the Western Australian government wanted to deploy drum lines. And, to add insult to injury, they knew the sharks were there because they were the ones that had the transmitters in them; they were tagged sharks. They were tagged so that our scientists could gain a better understanding of sharks in Western Australia and their migratory patterns—not just in Western Australia, but around the country.

Scientists will not continue to want to put tags on white sharks—because this is supported by the federal government; they have the responsibility—if the Western Australian government, supported by the federal government, explicitly—not tacitly, but explicitly—goes on a hunting mission to destroy the very animals that they are trying to get a better understanding of.

The federal government think they can wash their hands of their responsibilities to look after white sharks. We are not about to let that happen. I have a bill before the chamber that would prevent the federal government from just palming off its responsibilities by writing exemptions for the Western Australian government to choose to take white sharks. The federal government have a responsibility to protect our marine biodiversity, to protect white sharks and to work with the Western Australian government to find non-lethal methods.

In his response, the minister also said they do not consider the fishing gear. In fact, if they do need to catch a white shark on a drum line, they could use a circle hook like they do in Brazil. It does not kill the shark; it catches the shark and the shark is then released. The federal government have a responsibility and we are going to make sure they accept it and take that responsibility.

Question agreed to.

Taxation

Senator MILNE (Tasmania—Leader of the Australian Greens) (16:55): I move:

That the Senate take note of the documents.

I rise to respond to the Treasurer's letters in response to two Senate motions, the first of 2 October 2014 and the other of 9 February 2015, concerning both corporate tax evasion and corporate tax avoidance. As you can imagine, the Treasurer is saying, 'No worries—look here! It's all under control. The law is a beautiful thing; it's all being carefully managed and looked after.' Well, it is not.

Australians are absolutely fed up with the fact that the government has gone after ordinary people, making their lives harder, and has let the big end of town completely off the hook.
That is what the Senate put forward in those motions, and here we have the Treasurer writing back saying there is no credible evidence to support the Senate resolution that billions in forgone revenue from corporate tax avoidance could be recouped by simply enforcing current laws. He goes on to say that, according to the tax office, most corporates pay the tax they are required to under Australian law. If that is the case, there is a damn sight wrong with the Australian law when it comes to tax avoidance and tax evasion.

I was horrified when looking at the CPSU survey. What they had to say was that, as a result of the cuts to the tax office, getting the big four accounting firms to conduct audits instead of the tax office is a real worry because that is actually a pilot program, known as the external compliance assurance process. It uses a small number of companies earning over $100 million and it could become a permanent feature. Given that PricewaterhouseCoopers was one of the architects of the Luxembourg scheme, it does seem incredible that the tax office would continue to hire them as consultants and pretend that this is a sound proposition.

We have a situation where corporate Australia is not paying its way. It is getting away with avoiding and minimising its tax. There are plenty of things we can do about it beyond Treasurer Joe Hockey standing up at the G20 saying that Australia was going to get serious and then, in the next five minutes, that Australia wanted to delay by 12 months the implementation of laws that would require automatic information exchange to enable international scrutiny of what is going on around the world with multinationals.

In estimates last week I asked why we could not actually require companies by law to declare their subsidiaries, because at the moment those are not obvious when they are moving money—their debts and their profits and so on—around their subsidiaries to avoid paying Australian tax. We also had MYEFO last year; we would all remember that after the Treasurer, Mr Hockey, made a great song-and-dance at the G20 about how he was going to act on tax evasion, he then asked for another year. We did not join the early movers, and then in the MYEFO statement at the end of the year, he said that the government would not be proceeding with anti-avoidance measures and various provisions that had been put in by the Labor government. We have had the Luxembourg scandal; we have had the HSBC scandal; we know that corporates are avoiding their tax. We know, from submissions to the current inquiry of the Senate, that there is very much a culture in Australia of ‘if you don’t minimise tax, you’re mad.’

I am sure everybody remembers Kerry Packer giving evidence to the 1991 House of Representatives committee of inquiry into the Australian print media industry. When he was questioned about his tax payments he said: ‘Of course I am minimising my tax. If anybody in this country doesn’t minimise their tax, they want their heads read.’ That was Kerry Packer, and that is pretty much the culture that you will find with big corporates around Australia.

The Australia Institute in their submission talk about the disparity between corporate tax rates and income tax rates, and they point out that you need to look very carefully at this; because, when you have a significantly higher personal income tax rate than corporate or company tax rate, people are going to set up companies in order to avoid their tax. And that has been a serious issue in countries with a considerable difference between corporate and personal tax rates. Sweden, for example, had a large discrepancy between the top personal marginal tax rate of 55 per cent and its corporate tax rate of 28 per cent. As a result, it developed strong and comprehensive anti avoidance rules, and we have not done the same in...
Australia. The fact is: our laws have not kept up with the manner in which the big four have—
(Time expired)
Question agreed to.

DOCUMENTS
Consideration
The following orders of the day relating to government documents were considered:
Australian Broadcasting Corporation (ABC)—Equity and diversity—Report for the period 1 September 2013 to 31 August 2014. Motion to take note of document moved by Senator O'Sullivan. Debate adjourned till Thursday at general business, Senator O'Sullivan in continuation.

Australian Defence Force
Tabling

Senator PAYNE (New South Wales—Minister for Human Services) (17:03): At the request of the Assistant Minister for Defence, Mr Robert, I table a ministerial statement on capability through diversity.

COMMITTEES
Membership
Environment and Communications Legislation Committee

Public Works Committee

The ACTING DEPUTY PRESIDENT (Senator Dastyari) (17:03): The President has received letters from party leaders requesting changes in the membership of various committees.

Senator PAYNE (New South Wales—Minister for Human Services) (17:03): by leave—I move:
That senators be discharged from and appointed to committees as follows:
Environment and Communications Legislation Committee—
Appointed—
Substitute members:
Senator McEwen to replace Senator Urquhart on Friday, 6 March 2015
Senator Conroy to replace Senator Urquhart on Tuesday, 10 March 2015
Participating member: Senator Urquhart

Public Works—Joint Statutory Committee—
Discharged—Senator Canavan
Appointed—Senator Smith.
Question agreed to.
BILLS

Enhancing Online Safety for Children Bill 2014
Enhancing Online Safety for Children (Consequential Amendments) Bill 2014

First Reading

Bills received from the House of Representatives.

Senator PAYNE (New South Wales—Minister for Human Services) (17:04): 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 PAYNE (New South Wales—Minister for Human Services) (17:04): 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 speech read as follows—

ENHANCING ONLINE SAFETY FOR CHILDREN BILL 2014

The Enhancing Online Safety for Children Bill 2014 (the Bill) contains a package of important measures to implement the Government's election commitment to enhance online safety for children.

It creates a new statutory office, the Children's e-Safety Commissioner, and provides for the Commissioner to administer a complaints scheme in relation to harmful cyber-bullying material targeted at an Australian child.

The measures in this Bill follow extensive consultation carried out by the Coalition, both in Opposition and more recently in government.

In particular, this Bill implements measures which were promised in the Coalition's Policy to Enhance Online Safety for Children at the 2013 election:

- Establishment of a Children's e-Safety Commissioner to take a national leadership role in online safety for children
- Implementing an effective complaints system, backed by legislation, to get material targeted at and harmful to an Australian child, down quickly from large social media sites; and
- Improving support for schools through a stronger online safety component within the National Safe Schools Framework, funding of $7.5 million for schools to access online safety programmes and the certification of online safety programmes.

Early this year, the Government released a public discussion paper seeking feedback on our proposed measures.

We received over 80 submissions from a range of stakeholders including community organisations, industry, education bodies, government bodies, legal bodies, academics and individuals.

There was a strong response, with many organisations supporting the proposal to establish a Children's e-Safety Commissioner and the rapid-takedown system.

The Government also commissioned research from a consortium of universities led by the University of New South Wales Social Policy Research Centre.
This very much confirmed the messages we have been hearing from the community about the prevalence and impact of cyber-bullying.

The research found that the best estimate of the prevalence of cyber-bullying over a twelve month period is 20 per cent of Australians aged 8–17, with some studies putting that figure as low as 6 per cent and others as high as 40 percent.

This is within the range of estimates of other international studies, and is consistent with previous work done by the Australian Communications and Media Authority (the ACMA), which found that 21 per cent of 14–15 year-olds and 16 per cent of 16–17 year-olds had reported being cyber-bullied.

The research found that most incidents of cyber-bullying occurred on social media - and that the prevalence of cyber-bullying has "rapidly increased" since it first emerged as a behaviour.

Following the research findings and public consultation process, the Government has continued to engage with key stakeholders, including each of the members of the Government's Online Safety Consultative Working Group.

This Group includes the National Children's Commissioner, various industry groups, large social media services (including Facebook, Google and Twitter), child safety advocates and law enforcement officials.

The legislation introduced today implements the Government's election commitment to enhance the online safety of children through a number of measures.

**Establishment of the Children's e-Safety Commissioner**

The Bill will establish the Children's e-Safety Commissioner (the Commissioner) as an independent statutory office within the Australian Communications and Media Authority (the ACMA). The Commissioner will take a national leadership role in online safety for children.

A key function of the Commissioner is to administer a complaints system for cyber-bullying material targeted at an Australian child, which is described later in this speech.

Other functions of the Commissioner will include promoting online safety for children, coordinating relevant activities of Commonwealth Departments, authorities and agencies in relation to online safety for children, and accrediting and evaluating online safety educational programmes.

The relevance of accreditation is that the Government is allocating $7.5 million for schools to purchase online safety programmes – and this funding can be spent on any programme accredited by the Children's e-Safety Commissioner.

The Commissioner will also take on responsibility for administering the current Online Content Scheme under Schedules 5 and 7 to the *Broadcasting Services Act 1992*.

However it is important to understand that this is simply the Commissioner taking responsibility for administration of this existing and longstanding scheme. The Bill does not make any changes to the Online Content Scheme.

It is quite separate from the new complaints system established by this Bill.

The logic for giving the Commissioner responsibility for both the existing Online Content Scheme, and the new complaints system for harmful cyber-bullying material targeted at an Australian child, is that there are likely to be operational efficiencies and synergies in doing so.

**Two-tiered rapid removal scheme**

The Bill sets out a two-tiered scheme for the rapid removal from large social media services of cyber-bullying material targeted at an Australian child. Social media services participating under tier 1 will do so on a cooperative basis – that is, the service will apply to participate and if its application is accepted it will be included within tier 1.
Following investigations of a complaint, the Commissioner may request that the tier 1 social media service remove the cyber-bullying material, but there is no legal obligation on the social media service to comply.

The Commissioner will have the power to revoke tier 1 status if the social media service repeatedly fails to remove cyber-bullying material following requests from the Commissioner over a period of 12 months, and may make a recommendation to the Minister that the service be declared a tier 2 social media service.

A service may also be declared tier 2 at its own request.

Those declared to be tier 2 social media services will be subject to legally binding notices or face the risk of civil penalties for non-compliance.

The two-tier scheme in the Bill allows for a light touch regulatory scheme in circumstances where the social media service has an effective complaints scheme and it is working well; but it enables the government to require that cyber-bullying material targeted at an Australian child be removed in circumstances where a social media service does not have an effective and well-resourced complaints system.

The Commissioner will maintain registers of Tier 1 and Tier 2 social media services. The Commissioner will also be able to publish statements about non-compliant social media services in respect of failing to comply with the basic online safety requirements, failing to comply with a request for removal of cyber-bullying material, or failing to comply with a social media service notice.

End-user notices

The Commissioner will also be given the power to issue an end-user notice to a person who posts cyber-bullying material targeted at an Australian child.

The Government has drawn on a number of models in developing this mechanism. One is the process set out in the New Zealand Harmful Digital Communications Bill.

Another is the experience of the National Children's & Youth Law Centre based at the University of New South Wales. They have found that in many cases a formal written request to cease cyber-bullying behaviour, issued by the centre, resolves the issue.

An end-user notice may require the recipient of the notice to take all reasonable steps to remove the material, refrain from posting further material targeted at the child or apologise for posting the material.

The next steps available to the Commissioner, if the recipient of the notice fails to respond, will include going to court to seek an injunction, or referring the matter to police.

The Bill will not include a power for the Commissioner to fine end-users who fail to respond to a notice (many of whom could be children), because the Government is wary of imposing fines on children.

The Government anticipates that the Commissioner will enter into arrangements with the police and educational bodies setting out the circumstances in which matters would be dealt with by those parties.

Key Definitions

Cyber-bullying material targeted at an Australian child

The definition of "cyber-bullying material targeted at an Australian child" in clause 5 of the Bill has been developed after careful consideration of a number of sources.

These have included provisions in other Australian legislation, for example in relation to workplace bullying; the New Zealand Harmful Digital Communications Bill which refers to 'serious emotional distress'; academic research on the normative definitions of cyber-bullying; the terms of use of a number of the large social media services; and the cyber-bullying policies of state government agencies such as the NSW Department of Education.
There is an important balance to be struck here. On the one hand we seek to capture the full breadth of cyber-bullying material. On the other hand we do not want a regulatory scheme which is excessive or heavy handed and which regulates material which does not need to be regulated.

Striking this balance is particularly important given the power conferred on the Commissioner by the Bill – to have material removed at very short notice if the Commissioner concludes that it is cyber-bullying material targeted at an Australian child.

In other words, it is important that we do not set the bar too low – but equally it is important that we do not set the bar too high.

Three key features will affect how the definition is applied.

First, material must be likely to have the effect of seriously threatening, intimidating, harassing or humiliating a particular Australian child. The use of the word 'seriously' in the Bill is intended to guide the Commissioner, and the courts, so that material which is merely minor, trivial or frivolous in nature is not regarded as cyber-bullying.

Second, the definition includes the capacity for the legislative rules to include other conditions if it becomes apparent during the course of administering the legislation that further conditions are necessary.

Third, the definition will be applied in the Commissioner's exercise of discretionary powers to issue notices. In the exercise of these powers, it is expected that the Commissioner will exercise judgement and common sense, and will act consistently with best practice guidelines and statements issued by the Commissioner. The legislation gives the Commissioner the power to develop and issue such guidelines.

The government is conscious that when children – particularly teenagers – communicate online, they may use swear words, or describe a person in terms that appear derogatory – but it may well be that this is simply the normal interaction between friends and acquaintances. Any parent of teenagers will understand this point immediately.

Ultimately it will be a judgement for the Commissioner, and there will be many indicators of seriousness in the broader context of the events occurring that may assist the Commissioner to apply the definition, such as the intensity of the language used, the material being posted repeatedly and whether or not the recipient or target of the material is on friendly terms with the person posting the material.

**Social Media Service**

For the purposes of the Bill, a social media service is an electronic service that satisfies the following conditions:

- the sole or primary purpose of the service is to enable online social interaction between 2 or more end-users;
- the service allows end-users to link to, or interact with, some or all of the other end-users; and
- the service allows end-users to post material to the service.

For the purposes of this definition, online social interaction includes the sharing of photos, videos or other material for social purposes. Social interaction does not include business interactions.

The definition of social media service allows legislative rules to include or exempt specified services. The constant innovation in social media services makes these powers necessary to deal with new kinds of services which may emerge in the future.

The Commissioner's formal legal powers to issue a social media service will apply only to a 'large social media service' – or another service that has voluntarily consented to be subject to the scheme.

The powers will not apply to small offshore-based social media services. That is because seeking to make such services subject to Australian legal jurisdiction is unlikely to succeed if those services have no nexus with Australia.
However, the Commissioner will be expected to make (and maintain) contact with new and emerging social media services accessible to Australian children, wherever they are based around the world, to let them know that if they became large, they will become subject to the Australian legislation, and to seek to establish a relationship under which informal requests to remove cyber-bullying material targeted at an Australian child can be made.

**Basic Online Safety Requirements**

The legislation will state the Parliament's expectation that all social media services should comply with certain basic online safety requirements, to have:

- terms of use that prohibit the posting of cyber-bullying material;
- a complaints scheme under which end-users of the service can seek to have material that breaches the service's terms of use removed; and
- a contact person where the Commissioner can refer complaints that users consider have not been adequately dealt with.

As part of establishing relationships with social media services accessible to Australian children, wherever they may be based around the world, the Commissioner will be expected to communicate the expectations set out in the Bill of the basic online safety requirements.

**Enforcement provisions**

The Bill contains enforcement provisions. If a person fails to comply with a requirement under an end-user notice, the Commissioner will be able to issue a formal warning.

If the provider of a social media service fails to comply with a social media service notice, it will be liable to pay a penalty of 100 penalty units – for each day in which the service fails to respond.

The Commissioner will additionally be able to accept an enforceable undertaking from such a provider.

In the case of either a requirement under an end-user notice or a requirement under a social media service notice, the Commissioner will be able to go to court to obtain an injunction to ensure compliance with the notice.

In each case, enforcement is governed by the standard provisions that are contained in the *Regulatory Powers (Standard Provisions) Act 2014*.

**Conclusion**

The measures in this Bill implement key aspects of the Government's election commitment to enhance online safety for Australian children.

The internet – and social media – offers a forum for human interaction which in the main is of great social benefit. But sometimes human interactions go wrong – offline or online.

When that happens, the internet – and social media in particular – can make bullying behaviours more dangerous to children who are the victim of it.

The measures in this Bill will bring a better and more rapid response to these dangers – and help keep Australian children safer online.

**ENHANCING ONLINE SAFETY FOR CHILDREN (CONSEQUENTIAL AMENDMENTS) BILL 2014**

- This Bill deals with consequential matters arising from the enactment of the *Enhancing Online Safety For Children Bill 2014* which establishes the Children's e-Safety Commissioner to take a national leadership role in online safety for children.
• Schedule 1 of the Consequential Amendments Bill contains amendments to the *Broadcasting Services Act 1992* to:
  • give the Commissioner information gathering powers similar to those currently possessed by the Australian Communications and Media Authority (known as the ACMA) under Part 13 of that Act;
  • change references in Schedules 5 and 7 to the Broadcasting Services Act from the ACMA to the Commissioner to reflect the transfer of administrative responsibility for the Online Content Scheme in those Schedules to the Commissioner; and
  • make minor consequential amendments to provisions in those Schedules.
• Schedule 2 contains consequential amendments to other Acts arising from the establishment of the Commissioner.
• Schedule 3 contains transitional provisions relating to the transfer of administrative responsibility for the Online Content Scheme in Schedules 5 and 7 to the Broadcasting Services Act to the Commissioner.

Debate adjourned.

**Higher Education and Research Reform Bill 2014**

**First Reading**

Bill received from the House of Representatives.

**Senator PAYNE** (New South Wales—Minister for Human Services) (17:05): 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 PAYNE** (New South Wales—Minister for Human Services) (17:05): 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—*

**HIGHER EDUCATION AND RESEARCH REFORM BILL 2014**

**Introduction**

Today I introduce the Higher Education and Research Reform Bill 2014 to secure the passage of essential reforms to higher education and research, which have at their heart Australia’s future economic security and opportunities for students.

This Bill implements reforms to higher education and research announced in the 2014-15 Budget, which seek to spread opportunity to more students, especially disadvantaged and rural and regional students; equip Australian universities to face the challenges of the 21st century; and ensure Australia is not left behind by intensifying global competition and new technologies.

Naturally, I am disappointed about the outcome of the Higher Education and Research Reform Amendment Bill 2014, which was defeated yesterday in the Senate following a sustained, baseless and irresponsible scare campaign.
We should all be disappointed. That Bill, in amended form, would have shown the worth of our democratic process, representing, as it did, the outcome of many months of consultation and negotiation on the detail of the reform package.

I am therefore introducing a new bill, the Higher Education and Research Reform Bill 2014, which preserves essential elements of the Government's higher education reforms with the following changes:

- The Government has withdrawn the proposal to change the indexation to the 10-year Treasury bond rate. I accept that there were concerns about the impact of the previously proposed measure on some graduates, including those who take time out of the workforce to raise children or for other reasons, and those who work in low paid employment. Senator Day and others argued cogently for this change, and we have responded to their concerns.
- I have also listened carefully to Senator Madigan's arguments for a pause on HECS indexation for primary carers of a child under 5. This Bill, the Higher Education and Research Reform Bill 2014, contains this measure. It will provide real benefits for new parents.
- This Bill also provides for a structural adjustment fund to assist universities to transition to a more competitive market, particularly those in regional areas.
- The Bill also introduces a new scholarship fund within the Higher Education and Participation Program for universities with high proportions of low SES students.
- The Bill will also guarantee that domestic students' fees are lower than international students' fees.

Through returning the indexation rate for HECS debts to CPI, providing the indexation pause for new parents, and abolishing the unfair loan fees imposed on some students but not others, this Reform Bill makes the HECS system fairer and more generous. Through the provision of support – for the first time – for all Australian undergraduates, wherever they study, in diploma courses through to Bachelor degrees, we will be supporting far more students than ever before. The Reform Bill spreads the money slightly thinner so as to spread opportunity much wider.

Through freeing up our universities, we will enable them to offer students the very best education they can, and HECS guarantees that this will remain affordable and accessible for all. In fact, the Commonwealth Scholarships will support tens of thousands of disadvantaged students to go to university. This is not just a Budget measure. This is great reform. It is some of the most important reform in generations.

I am, of course, open to further negotiations with Members and Senators on the details of the Bill. Contrary to some of the irresponsible negative commentary from those opposite, the Government has been consulting extensively before and since Budget night and has demonstrated already our bona fides in responding to constructive, positive suggestions.

The Government has made the changes I have mentioned to its proposed reforms because it has listened carefully to the views of those in the higher education community – universities, non-university higher education institutions, students, their parents, employers and professional organisations.

I have taken careful account of the recommendations of the Senate Education and Employment Legislation Committee following its inquiry into the Higher Education and Research Reform Amendment Bill 2014.

I have consulted with Members and Senators, who have relayed the views of their constituents, as well as their own thoughts on the proposed reforms.

I have said many times that I was prepared to make changes to the reform package to secure its passage through the Parliament.

I believe that these reforms are nothing short of essential to the well-being of Australia's future economy. Without them, Australia simply will not prosper.
I am not alone in this view. This has been the clear message from higher education institutions across the country.

It is what they want.

It is what universities, TAFEs and colleges know is needed for the future of higher education and for the future of our country.

 Universities Australia, the Australian Technology Network, the Innovative Research Universities, the Regional Universities Network, the Group of Eight, TAFE Directors Australia, the Australian Council of Private Higher Education and Training, and the Council of Private Higher Education have ALL supported the Government's reforms, with amendments.

As Universities Australia said:

Either the status quo of ongoing inadequate investment or further cuts without deregulation will condemn Australia's great university system to inevitable decline, threaten our international reputation and make it increasingly difficult for universities to meet the quality expectations of our students…

**Overview of the reforms**

The Higher Education and Research Reform Bill 2014 does not contain any tricks. It is much the same as the Bill I introduced a few months ago which was yesterday defeated in the Senate, with the important amendments I outlined just a moment ago.

As such, this Bill has the same objectives as its predecessor. It provides a basis to transform Australia's higher education system and allow it to be the best in the world.

There are four key elements.

*Spreading access to higher education*

The Bill will expand access to higher education by removing current limits on Commonwealth supported sub-bachelor places. Any Australian student who wishes to study an accredited undergraduate qualification will be able to do so with Commonwealth support.

We will no longer discriminate against students who seek to enrol at private universities and at non-university higher education institutions, including TAFEs.

We are also providing unlimited places for diplomas, advanced diplomas and associate degrees – pathways into higher education for less prepared students, and qualifications for jobs in their own right.

This Government believes that engineering technologists, paralegals, and construction managers are as deserving of taxpayer support to undertake their training as engineers, lawyers and architects.

This reform allows an additional 80,000 students each year to receive Commonwealth subsidies by 2018. This will include more people from disadvantaged backgrounds, from rural and regional communities and those who need extra assistance to complete their studies.

Member institutions of the Council of Private Higher Education (COPHE) have confirmed that 'whatever they receive in Commonwealth support for students will be passed on to students through reduced tuition' (i.e. reduced tuition fees).

Equitable access will be further supported through the new Commonwealth Scholarship scheme. The Commonwealth Scholarship Scheme will provide what is likely to be the largest scholarship support in Australia's history for students from disadvantaged backgrounds, which will include many students from rural and regional Australia. These Scholarships will assist students with the cost of tuition fees, but also with the costs of living, textbooks, and materials.

*Fee deregulation*

Second, the Bill gives institutions flexibility in how they set their fees.

The Government does not believe it should tell institutions how much they can charge for a course. Government control of fees means institutions are operating with one arm tied behind their back.
The Government doesn’t have adequate information about how much it costs an institution to deliver a course, so why should it dictate the price?

No other business in Australia would stand for this degree of interference.

The Government wants universities and other higher education institutions to compete with each other, including on price. We want each institution to be accountable to students for the type and quality of courses they offer. They need to deliver what students and employers want.

When higher education providers compete, students win. They win on:

- the range of courses offered
- the quality of teaching
- other student support
- scholarships
- value for money.

Fee deregulation is essential to drive greater competition, innovation and quality. It will enable our institutions to set their own direction and serve their students and communities as well as they can, and compete with the best in the world.

And the Bill provides this flexibility without reducing access or affordability. Every Australian student will continue to be able to defer their tuition fees through HECS so they don’t have to pay a cent up front or pay a cent back until they are earning more than $50,000 each year.

A fairer higher education system

This brings me to HECS.

HECS is critical to ensuring that no student is denied the benefit of a higher education. Providing assistance to students through HECS comes at a cost - this year the Government is providing more than $5 billion in HECS loans and this will increase to $10 billion in 2017. The Government sought to introduce a fair interest rate on loans to alleviate taxpayers of some of this cost burden. However, as I indicated earlier, I have removed this proposal from the package, and as a consequence it is not contained within this Bill. HECS indexation will continue to be based on the CPI.

As I have indicated, the Bill also reflects Senator Madigan’s proposal to freeze interest rate charges for the primary carers of a child under 5. This family-friendly proposal joins with Senator Day’s proposal in taking us back to CPI for indexation of HECS debts, and goes further. It provides a wholly new benefit to graduates caring for young children.

Again, the important thing is, HECS is here to stay, so no Australian student need ever pay a cent up front for their higher education course.

Our HECS system is the envy of the world. But one thing that is clearly wrong with the student loan system is the 25% additional fee that is imposed on students who choose to study in a non-Commonwealth supported place, and the 20% on students studying with the support of VET FEE-HELP.

So the Government is acting to make the system fairer, by removing inequities in the treatment of students and institutions under the HECS scheme. Consistent with the Budget announcement, the Bill removes the 20 per cent loan fee for VET FEE-HELP and the 25 per cent loan fee for FEE-HELP. These loan fees are an unfair cost on those students who are not receiving a Commonwealth subsidy.

Removing the loan fee makes the system fairer, and will simplify and improve the consistency of loan arrangements for students and institutions.

It will also remove pricing inequity between public universities and other institutions. It will particularly benefit students who elect to undertake higher level courses at institutions such as TAFEs.
Over 80,000 students undertaking vocational education and training and 50,000 higher education students will benefit each year from the removal of the loan fee. In 2013, the average cost of these per student was around $1,600 for VET FEE-HELP and $2,600 for FEE-HELP.

The lifetime limits on all HECS schemes are also being removed as they result in students paying upfront costs which can provide a significant barrier to access. As a result of this change no student will need to pay their fees upfront in order to access higher education.

A strong competitive research system

Lastly, the Government is committed to ensuring Australia has a strong competitive research system.

As part of the higher education reform package the Government will invest $11 billion over four years in research in Australian universities, including $139 million for the Future Fellowships scheme and $150 million in 2015-16 to continue the National Collaborative Research Infrastructure Strategy.

Labor left funding cliffs for both of these vital research programmes.

The Government's commitment to ARC funding for Future Fellowships means that ARC funding is increased by this Bill well above what was proposed by the previous Government in the forward estimates.

Consequences of the Bill not passing

For our universities, the funding system will continue to operate like a strait jacket. There will be little scope or incentive for them to develop and market new and innovative courses to Australian students; much less the capacity for them to shine internationally.

Australian universities will be forced to deal with the continuing instability and uncertainty of the current funding system. If evidence of this is needed, look no further than the $6.6 billion of cuts that Labor announced from 2011. This is hardly the way for Australia's third biggest export industry to run.

And let us not forget that what Labor did not cut, they left unfunded. If the Bill does not pass, the Future Fellowships scheme will cease, and many of our best researchers will be forced to leave. The National Collaborative Research Infrastructure Strategy will cease, putting 1500 researchers out of a job. The loss of these two programmes alone will do irreparable damage to our capacity to support high quality research.

For the higher education activities of our TAFEs and private colleges, we will be closing the door in their face.

If the Bill is not passed, students will continue to be locked out of pathways qualifications – qualifications which, as identified by Dr Kemp and Mr Norton in their review of the demand driven system, have a significant impact on the drop-out rates of students with low ATARs.

If the Bill is not passed, 80,000 Australian students a year will miss out on receiving Commonwealth support to study.

And if we do not pass this Bill, we will forgo the largest scholarship scheme for disadvantaged students that Australia has ever seen.

Conclusion—no credible alternative

So the Australian Parliament again has an opportunity to support some of the greatest higher education reforms of our time, and it is clear that there is no credible alternative.

As Mike Gallagher, one of the most experienced figures in Australian higher education policy, has said:

The 2014 Higher Education Budget reforms are necessary. They are logical, coherent, sustainable, equitable and inevitable… My guess is that the detractors of micro-economic reform in Australia’s higher education industry will find themselves on the wrong side of history in resisting efficiency improvement and innovation, as they will be in opposing the redistributive measures of the package
and, curiously, supporting socially regressive subsidies from general taxpayers to more advantaged segments of the community.

The Higher Education and Research Reform Bill 2014 will allow our higher education system to be the best in the world. It will ensure that future generations of Australians can get a world-class education to support them in the jobs of the future. It will provide the backbone of our future economy.

I urge Members and Senators to support the Bill.

Debate adjourned.

**Tax and Superannuation Laws Amendment (2014 Measures No. 7) Bill 2014**

**First Reading**

Bills received from the House of Representatives.

Senator PAYNE (New South Wales—Minister for Human Services) (17:04): 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 PAYNE (New South Wales—Minister for Human Services) (17:06): 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 speech read as follows—*

**TAX AND SUPERANNUATION LAWS AMENDMENT (2014 MEASURES NO. 7) BILL 2014**

This Bill amends various taxation laws to implement a range of improvements to Australia's tax system.

The amendments are part of the Government's Economic Action Strategy, which is providing the right conditions to drive growth and create jobs by creating the right incentives for a more dynamic and competitive Australian economy.

We are restoring fiscal sustainability and confidence in our public finances.

We are promoting business confidence by creating the right environment to innovate, invest and thrive.

We are making sure that the frameworks and structures that underpin the Australian economy—the fundamentals—are right.

By doing this we will unleash our economic potential and build a strong and prosperous Australia.

These amendments encourage business to get on with business.

They improve the efficiency of government.

And they reduce uncertainty for both business and individuals in taxation and regulation.

Schedule 1 of this Bill makes the superannuation tax laws fairer. Currently, individuals are taxed on any superannuation contributions in excess of their cap at the top marginal tax rate. This is punitive, especially as excess non-concessional contributions are made out of after tax income, generally inadvertently and incurred by most individuals below the top marginal tax rate.
This Bill will allow individuals the option of being taxed on the deemed earnings associated with their excess superannuation non-concessional contribution at their marginal tax rate.

This will ensure the treatment of excess concessional and non-concessional contributions is broadly consistent.

Prior to the last election, the Government made a commitment to develop appropriate mechanisms to address all inadvertent breaches of the superannuation contribution caps where the error would result in a disproportionate penalty.

This measure delivers on that commitment.

It also addresses the recommendations of the Inspector General of Taxation in his report of March 2014, Review into the Australian Taxation Office’s compliance approach to individual taxpayers — superannuation excess contributions tax.

Schedule 2 of the Bill transfers the Commonwealth Ombudsman’s investigative and complaints handling functions relating to tax law matters to the Inspector-General of Taxation.

The Inspector-General of Taxation is an independent statutory office that reviews systemic tax administration issues and reports to Government with recommendations for improving tax administration for the benefit of all taxpayers.

The changes were announced in the 2014-15 Budget and will provide taxpayers with a single, specialised, scrutiny agency for handling both individual tax complaints and systemic tax reviews. The transfer will enable more efficient use of tax expertise and provide for an improved customer focus.

The amendments have also provided the opportunity to bring the Inspector-General’s systemic review powers into line with those of the Ombudsman. The Inspector-General’s powers will now mirror those of the Ombudsman.

Schedule 3 of the Bill makes minor amendments to the taxation laws to ensure the proper functioning of the capital gains tax provisions in relation to life insurance policies.

The Government is addressing the backlog of 92 tax and superannuation measures that had not been legislated by previous governments to reduce uncertainty for businesses and consumers.

By introducing this Bill, the Government is crossing another measure off that list.

The intention of this amendment is for compensation or damages received by a trustee and beneficiary, for example for a workplace injury, not be subject to Capital Gains Tax.

Further, trustees who hold life insurance policies, and superannuation fund trustees who hold life, injury and illness insurance policies for members and receive compensation or damages, from such policies, should not be subject to Capital Gains Tax.

These changes will create a Capital Gains Tax exemption for compensation or damages received by certain trustees for a wrong, injury or illness suffered by a beneficiary who subsequently receives a distribution attributable to that compensation or damages.

These amendments codify the ATO’s existing administrative practice, giving taxpayers, business and superannuation funds certainty in how the law applies to these situations.

Schedule 4 provides greater certainty for superannuation fund mergers by clarifying that a tax integrity rule will not be triggered when superannuation benefits are rolled over from one superannuation fund to another as a result of a merger between those funds.

The measure will benefit superannuation funds intending to merge to achieve efficiencies and comply with regulatory requirements, and their individual members whose retirement savings will benefit as a result.

This measure will apply from 1 July 2015.
Schedule 5 of the Bill amends the *Taxation Administration Act 1953* to remove doubt about protected information sharing by the ATO with law enforcement agencies.

The amendments clarify the ATO’s ability to share information with Commonwealth, state and territory law enforcement agencies seeking proceeds of crime orders.

The amendments also extend disclosure of protected information to include disclosure that assists in supporting or enforcing proceeds of crime orders.

Schedule 6 of this Bill amends the taxation laws to provide for an Exploration Development Incentive.

This delivers on the Government's 2013 election commitment.

The Incentive encourages investment in small exploration companies undertaking greenfields exploration in Australia.

The resources sector remains an important source of growth in the Australian economy. In 2013-14 about 10 per cent of growth in GDP was driven by the mining industry. Similarly, employment in the mining industry has grown by 10 per cent on average over the past 10 years.

Not only is the sector important for Australia's economy overall, but a vibrant resources sector creates jobs and supports local businesses in regional communities across Australia.

The resources sector is dependent on the continuing discovery of quality resources, and it is small mineral exploration companies that undertake most of the exploration in greenfields areas.

However, Australia's junior explorers have been finding it increasingly difficult in recent years to raise the capital they need to continue to explore.

This was not helped by the actions of the previous Labor government, which burdened the resources sector with new taxes and extra regulation. As a result, exploration for new mineral discoveries has reached a 10 year low.

The Exploration Development Incentive helps restore confidence in the junior exploration sector and allows junior exploration companies to get on with the job of finding tomorrow’s mines.

The Incentive provides Australian resident shareholders of junior explorers with a refundable tax offset for the exploration undertaken by these companies where the company gives up a portion of its losses.

This will assist junior explorers in raising capital from private sector investors.

The Government conducted public consultation on the policy design of the Exploration Development Incentive from March to April and public consultation on draft legislation and explanatory materials in October.

The cost of the Incentive is capped at $100 million over three years.

Schedule 7 of this Bill makes a number of amendments across the tax law to provide certainty for taxpayers. These amendments make sure the law operates as intended, by correcting technical or drafting defects, removing anomalies, and addressing unintended outcomes.

The amendments demonstrate the Government’s commitment to the care and maintenance of the tax law. By clarifying the law, addressing unintended outcomes and repealing unnecessary provisions, these amendments further the Government's deregulation agenda.

A number of the amendments relate to issues lodged on the Tax Issues Entry System, a platform for members of the community to raise matters regarding the care and maintenance of the Australian Government's tax and superannuation systems.

Among other things, these amendments will achieve the intended policy outcome for the self-actuating system for indirect taxes.
They remove redundant provisions concerning the calculation of taxpayers' net amounts of GST for a period.

They clarify that an entitlement to an input tax credit ceases when the Commissioner of Taxation is no longer able to amend relevant GST assessments.

And they harmonise the time limits for objections for private indirect tax rulings, with those for objecting to other kinds of tax rulings.

The Schedule also makes amendments to allow corporate limited partnerships to effectively return capital to partners, without anomalous tax outcomes.

This Bill makes sure the amendments do not operate to determine whether a payment made by a corporate limited partnership is taken to be a dividend by the income tax law.

Further amendments will assure taxpayers they will not be inappropriately denied automatic rollover relief in balancing adjustments for certain depreciating assets.

The Schedule also updates section references and cross references in the tax law, and repeal redundant provisions.

Full details of all the measures in the Bill are contained in the explanatory memorandum.

I commend the Bill to the House.

EXCESS EXPLORATION CREDIT TAX BILL 2014

The Excess Exploration Credit Tax Bill 2014 forms part of a package of legislation along with Schedule 6 to the Tax and Superannuation Laws Amendment (2014 Measures No. 7) Bill 2014 to introduce an Exploration Development Incentive.

This Bill imposes the excess exploration credit tax, which provides a mechanism to recover any costs to the Commonwealth that may arise where an exploration company distributes more exploration credits than they are entitled to under the Exploration Development Incentive.

This mechanism will ensure the fairness and integrity of the Exploration Development Incentive.

Further details of the Bill and the Exploration Development Incentive more generally are set out in the explanatory memorandum.

Debate adjourned.

Aboriginal and Torres Strait Islander Peoples Recognition (Sunset Extension) Bill 2015

First Reading

Bill received from the House of Representatives.

Senator PAYNE (New South Wales—Minister for Human Services) (17:07): 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 PAYNE (New South Wales—Minister for Human Services) (17:07): 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—
I am pleased to introduce this bill to extend the *Aboriginal and Torres Strait Islander Peoples Recognition Act 2013* for three years, until 28 March 2018.

In the *Aboriginal and Torres Strait Islander Peoples Recognition Act 2013*, or act of recognition, Parliament recognised, for the first time, that the continent and the islands now known as Australia were first occupied by Aboriginal and Torres Strait Islander peoples.

While not a substitute for constitutional recognition, the act demonstrates the Parliament's multi-partisan commitment to recognition, and is an important step on the road to a referendum.

The act of recognition passed the previous Parliament with unanimous support. An important part of the act was its 2-year sunset date, included to make sure that Parliament and the people knew that the job wasn't done. The Member for Hasluck has likened it to a post it note on the fridge, a reminder for us to complete the job. The act is an important form of recognition. But the ultimate goal remains constitutional change and that is the goal we have firmly in our sights.

Since the introduction of the act we have taken a number of key steps towards a referendum to recognise Aboriginal and Torres Strait Islander people in the Constitution.

The act required us to undertake an assessment of our nation's readiness to support a referendum. This included an assessment of the proposals that would be most likely to obtain the support of the Australian people, and the levels of support amongst Aboriginal and Torres Strait Islander peoples, the wider public, and state and territory governments.

On 27 March 2014 a Review Panel was appointed in accordance with the act. The Review Panel's report was tabled on 19 September 2014.

The final report makes clear that we have not yet reached a point where we can proceed immediately to a referendum. But by taking certain concrete steps, we can get there. The report notes that to give a referendum the greatest chance of success, a number of pre-conditions need to be met, including agreeing a final proposal that can win the support of Indigenous Australians, parliaments and the people; setting a clear timeframe to show renewed commitment and urgency; and significantly raising the profile and understanding of constitutional recognition across the population.

The Review Panel also recommended that the act of recognition be extended for no more than three years, to demonstrate continuing commitment while we prepare the country for a referendum.

I can assure the Parliament that the Government is absolutely committed to holding a referendum to recognise Aboriginal and Torres Strait Islander peoples in the Constitution. It would be a watershed moment. It would right the wrongs of the past. It would acknowledge our shared history and the incredible value we place on our Aboriginal and Torres Strait Islander heritage. It would be one of the most powerful, unifying moments in our nation's history. And that is why we must work together now as a Parliament to get this right. Failure is simply not an option.

The Government is taking action on the recommendations of the Review Panel. In December, the Government announced an additional $5 million for the Recognise campaign, to help raise awareness of why recognition is so important.

We have indicated our desire to proceed to a referendum as soon as the nation is ready – by, we hope, 27 May 2017, and our willingness to work across Parliament, with Indigenous leaders and the Australian people to get it there.

In a few months' time, the Joint Select Committee will report on its favoured model for constitutional recognition. From there, we will enter a period of discussion and engagement with the Australian people to arrive at the proposition that has the best chance of success.
During the past 2 years, the act of recognition has had an impact. We have a multi-party process in place through the Joint Select Committee on Constitutional Recognition of Aboriginal and Torres Strait Islander peoples, the Review Panel's final report, and a clear set of recommendations to guide our path towards a successful referendum. But there is much work to do. We are still at the beginning of this journey, rather than near the end point.

We need more time, and we need to keep the post-it note there. Three years is ample time to get us to our goal. Three years, not just to see how we go, but to do everything in our collective power to achieve a constitutional change.

During this period, we must redouble our joint efforts to find consensus on a timeframe, a process, and ultimately, a form of words capable of winning support from a majority of Australians nationally, and in a majority of states. It is imperative that we now work together to turn this aspiration, shared by so many Australians, into a reality.

Debate adjourned.

**Broadcasting and Other Legislation Amendment (Deregulation) Bill 2015**

**First Reading**

Bill received from the House of Representatives.

**Senator PAYNE** (New South Wales—Minister for Human Services) (17:08): I move:

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

Question agreed to.

Bill read a first time.

**Second Reading**

**Senator PAYNE** (New South Wales—Minister for Human Services) (17:08): I table a revised explanatory memorandum relating to the bill and 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—*

**BROADCASTING AND OTHER LEGISLATION AMENDMENT (DEREGULATION) BILL 2015**

The Broadcasting and Other Legislation Amendment (Deregulation) Bill 2014 (the Bill) amends the Broadcasting Services Act 1992, the Radiocommunications Act 1992 and the Australian Communications and Media Authority Act 2005 to remove unnecessary legislation and reduce the regulatory burden on the broadcasting industry.

The Australian Government is committed to reducing the regulatory burden for business and the community to boost productivity. In May 2014, the Minister for Communications and his Parliamentary Secretary released the Communications Portfolio: Deregulation Roadmap 2014. This outlined the deregulation agenda for the Communications Portfolio.

The Government recognises that the broadcasting and media sectors are heavily regulated. The Bill will therefore implement a number of broadcasting related measures identified in the Communications Deregulation Roadmap. It will also address issues that have been raised through consultation with industry.
The Bill will remove some of the onerous requirements placed on the free-to-air broadcasters and subscription television licensees, streamline and simplify broadcasting legislation, and save industry time and money.

Schedule 4 to the Broadcasting Services Act provided the regulatory framework for the transition from analog to digital-only television broadcasting. The last terrestrial analog television services were switched off on 10 December 2013. After the completion of digital switchover in each licence area, the restack program commenced. The restack program involves the progressive reorganisation of television services across Australia. This is to ensure that none use digital dividend spectrum and that they are transmitted in a more spectrally efficient manner. The restack program is on schedule to be completed by 31 December 2014. Therefore, many of the licensing and planning provisions in broadcasting legislation that regulated the industry during the simulcast period are redundant, or, for the purposes of restack, are about to be. This Bill will remove or amend those provisions.

The Bill will also amend the framework for the planning of the broadcasting services bands spectrum by the Australian Communications and Media Authority (ACMA). While many of these planning provisions were necessary when the ACMA first established its planning instruments, many are now considered onerous, given the other legislative requirements the ACMA is required to adhere to.

Reflecting stakeholder feedback the Communications Portfolio Deregulation Roadmap identified captioning reporting as an area for reform in 2014. These reforms will reduce costs associated with the captioning regime and substantially increase licensees' flexibility when meeting their captioning obligations. In so doing the reforms will better support the ability of free-to-air broadcasters and subscription television licensees' to provide captioning services that benefit Australians with a hearing impairment.

This Bill will remove annual reporting arrangements for free-to-air broadcasters in favour of a complaints based process. In recent years, captioning requirements on the free-to-air television sector have gradually increased to such an extent that it has become clear to consumers when services do not meet them. This allows a move to a complaints-based system in place of existing onerous annual reporting arrangements reducing compliance costs for free-to-air broadcasters.

The captioning requirements placed on subscription television licensees are considerably more complex than those applying to free-to-air television broadcasters. Subscription television licensees are required to provide differing levels on captioning over a 24 hour period on different channels, which means there is currently no easy way for consumers to accurately know whether a particular program is required to be captioned. A move to a full complaints-based system for subscription television licensees is not appropriate for these licensees at this time. To achieve a better outcome in the long term, the Department of Communications will conduct further consultation with industry to identify ways in which the subscription television captioning regime could be modified to best suit the needs of all stakeholders.

In the meantime, the Bill introduces a number of measures designed to enhance flexibility and reduce the regulatory burden on subscription television broadcasters. The amendments will also reduce record keeping requirements and provide greater flexibility for the ACMA when assessing whether subscription and free-to-air broadcasters are providing high quality captioning services. However, the measures in this Bill are not expected to reduce the overall level of captioning free-to-air broadcasters and subscription television licensees provide and will not affect legislated future increases in the levels of captioning.

The Bill will remove the requirement for reports made by certain subscription television licensees and channel providers to the ACMA under the New Eligible Drama Expenditure Scheme to be independently audited. This will remove a significant administrative and financial burden on subscription television licensees and channel providers who have demonstrated high levels of compliance with their obligations under the Scheme.
The Bill will make minor amendments to the media ownership and control provisions in the Broadcasting Services Act. This includes extending the timeframe in which contemporaneous changes in control must be notified to the ACMA and removing the requirement for certain broadcasting and datacasting licensees and newspaper publishers to provide an annual list of their directors to the ACMA. Such reporting is unnecessary as the ACMA can source the required information elsewhere.

The Bill will make changes to the way in which changes in population affect the regulation of broadcasters. It will do this by providing grandfathering relief for commercial broadcasting licensees that, through no fault of their own, would otherwise be placed in breach of the statutory control rules and local content rules for commercial radio if they maintained their existing operations. This measure will ensure a more consistent application of grandfathering arrangements to deal with any inadvertent consequences arising from changes in population.

The Bill will correct an anomaly in the way certain licence areas are treated with respect to the media ownership and control rules. This will make sure that the method used to calculate media diversity voices more accurately reflects the practical reality of commercial radio services available to residents in certain licence areas.

Finally, the Bill repeals section 123A which requires the ACMA to conduct periodic reviews to assess whether a number of provisions of the Broadcasting Services Act operate in accordance with prevailing community standards. The provisions require industry codes of practice to apply the classification system provided by the Classification (Publication, Films and Computer Games) Act 1995 to films that are broadcast and include additional measures to ensure that films are suitably modified, broadcast in appropriate timezones, and that consumers are aware of the reasons for a particular film’s classification. I note there has never been a review under section 123A since its enactment in 1992 as there are alternative mechanisms for the ACMA to determine whether these provisions operate in accordance with prevailing community standards. This may be based upon the volume of complaints received from viewers or the ACMA’s own inquiries. Codes of practice are also periodically reviewed and the ACMA is required to ensure that a draft code provides appropriate community protection. The Bill also repeals a similar provision that applies to datacasters which also suffers from the same redundancy as section 123A. This particular provision is even more unnecessary as there has never been an industry code of practice for datacasters. Both provisions are clearly redundant and should be repealed.

The Government is committed to reforming broadcasting legislation, particularly in areas where onerous regulation is holding the industry back. This Bill is yet another step in removing red tape from industry and reducing the cost of doing business.

Debate adjourned.

Acts and Instruments (Framework Reform) Bill 2014

Crimes Legislation Amendment (Psychoactive Substances and Other Measures) Bill 2014

Environment Legislation Amendment Bill 2013

Returned from the House of Representatives

Message received from the House of Representatives agreeing to the amendments made by the Senate to the bills.

COMMITTEES

Membership

Message received from the House of Representatives notifying the Senate of changes in the membership of the following committees: Parliamentary Joint Committee on the Australian
Commission for Law Enforcement Integrity and the Joint Committee of Public Accounts and Audit.

**BILLS**

- Building Energy Efficiency Disclosure Amendment Bill 2014
- Treasury Legislation Amendment (Repeal Day) Bill 2014
- Customs Amendment Bill 2014
- Statute Law Revision Bill (No. 2) 2014
- Crimes Legislation Amendment (Unexplained Wealth and Other Measures) Bill 2014
- Australian Citizenship Amendment (Intercountry Adoption) Bill 2014
- Intellectual Property Laws Amendment Bill 2014
- Federal Courts Legislation Amendment Bill 2014

**Assent**

Messages from the Governor-General reported informing the Senate of assent to the bills.

**COMMITTEES**

- **Education and Employment References Committee**

  Report

  **Senator URQUHART** (Tasmania—Deputy Opposition Whip in the Senate) (17:10): On behalf of the Chair of the Education and Employment References Committee, I present the interim report of the Education and Employment References Committee on private vocational education and training providers.

  Ordered that the report be printed.

- **Finance and Public Administration Legislation Committee**

  Report

  **Senator O'SULLIVAN** (Queensland—Nationals Whip in the Senate) (17:10): On behalf of the Chair of the Finance and Public Administration Legislation Committee, I present the report on the Parliamentary Service Amendment Bill 2014 together with documents presented to the committee.

  Ordered that the report be printed.

**BILLS**

- **Fair Work (Registered Organisations) Amendment Bill 2014**

  Second Reading

  Debate resumed on the motion:

  That this bill be now read a second time.

  **Senator URQUHART** (Tasmania—Deputy Opposition Whip in the Senate) (17:11): Clearly, we have the strongest system we have ever had and it is working well. Those
opposite try to pretend that this bill is about bringing registered organisations into line with requirements for company directors. But this is not what they have done. Instead, it places higher penalties and more onerous requirements on officers in registered organisations.

In the inquiry into the previous bill, the Australian Industry Group said:

The bill would impose a far more onerous regime for officers of registered organisations than what applies to directors of public companies.

In fact, there are a number of areas in the bill which are inappropriate and extend beyond the provisions in the Corporations Act. For example, the maximum penalty for a 'serious contravention' of particular sections of the company act is $200,000 for an individual and $1 million for a body corporate. This is less than the amount in the bill. And unlike the Corporations Act, the penalties in the bill will automatically increase as the value of a penalty unit increases. Not only that, but the bill is very vague on what exactly constitutes a 'serious' contravention, other than to say that it is a contravention that is 'serious'—clear as mud, I think you would agree. So it would appear that penalties would be available regardless of whether the conduct meets the definition of a 'serious contravention'.

But it is not only the higher penalties and more onerous requirements that registered organisations have to deal with. There are new criminal provisions which would mean that registered organisations—employer bodies and unions—will have difficulty in persuading people, often in a voluntary capacity, to take on official responsibilities. Again, the Australian Industry Group stated:

If the proposed criminal penalties and proposed massive financial penalties for breaches of duties are included in the Registered Organisations Act, this would operate as a major disincentive to existing voluntary officers of registered organisations continuing in their roles, and would deter other people from holding office.

These are genuine concerns that have not been addressed by the government.

Unions have also raised very serious and legitimate concerns about the impacts of the proposed laws. Usually, when you have industry bodies and unions lining up in agreement there is something very wrong. And this case is no different. As a responsible opposition, Labor tried to engage with the government to ensure penalties did not exceed those of the Corporations Act 2001. But the government was unwilling to accept that proposal. And that is because they are not interested in fairness. They are not interested in good governance. They are only interested in destroying unions. This is a government that cannot be trusted with workplace relations.

Those opposite have a long and shameful history of attacking the rights of Australians at work. In 2004 they did not tell the Australian people their plans to introduce WorkChoices and AWAs. In 2005 they told the Australian people their pay and conditions 'were protected by law' when they were not. In 2008, Mr Tony Abbott said Work Choices was 'good for wages; it was good for jobs; and it was good for workers. And let's never forget that.'

And things have not got much better in this bad coalition government. It instituted the highly ideological Commission of Audit, which recommended that the minimum wage go backwards by one per cent a year in real terms for a decade. Analysis by the ACTU showed that this would entrench poverty by pushing the real value of the minimum wage down to its 1998 level of $12 an hour. This government promised not to touch penalty rates and then gave the Productivity Commission open slather to look at this and many other aspects of industrial
relations which we were told were off the table. It has also put legislation before this place which would allow penalty rates to be traded away. It extended the royal commission into the trade union movement for a year without the royal commission asking for it. This will further delay recommendations, yet the government persists with a bill that covers subject matter relating to the royal commission.

Of course, the opposition will consider the recommendations of this commission carefully when they are released, instead of the government pre-empting its own inquiry and the recommendations it will make. Labor will not support a politically motivated witch-hunt designed to kill off unions just because the government seeks to reward its friends in big business. This bill is pre-emptive; this bill is ill conceived; and it is also yet another broken promise by this government. I urge senators in this place not to support this. Do not support another broken promise of this bad government.

Senator LAMBIE (Tasmania) (17:16): I rise to briefly contribute to the debate on the Fair Work (Registered Organisations) Amendment Bill 2014. I have serious concerns about this bill. Firstly, I worry that this federal Liberal Party legislation, just like Campbell Newman did in Queensland, seeks to deliberately destroy and undermine basic civil rights. In this instance, it is the right to silence for working Australians, while potential white-collar criminals in the corporate world are allowed to enjoy the freedoms, rights and privileges of all who live in a democratic society. On page 75, in division 6, the offences section of the bill indicates that a person being questioned faces a penalty if that person fails to answer a question. Former Queensland Premier Campbell Newman would have been proud of that destruction of a basic civil right: the right to silence. My question for the Liberal Party is: if a banker were being questioned over a crime that had been committed within their organisation, would their right to silence also be suspended?

Secondly, I am concerned that this legislation pre-empts the final recommendations of the landmark Royal Commission into Trade Union Governance and Corruption. If you were a prudent political leader, surely you would wait until after the royal commission final recommendations were made public before you presented to the Australian people a complete legislative solution to corruption in the workplace. The royal commission's website informs the public:

The Commissioner John Dyson Heydon AC QC handed his interim report to the Governor General Sir Peter Cosgrove at Government House in Canberra.

The Interim Report was tabled in Parliament on 19 December 2014.

During 2014, the Commission conducted more than 70 public and private hearings involving more than 220 witnesses in Sydney, Melbourne, Perth and Brisbane.

The Royal Commission will continue its program of public hearings in 2015. It is anticipated, at this stage, that no public hearings will be held before April. Further details will be posted as they become available.

Clearly, the royal commission final report will be presented to the Australian people towards the end of this year. Why does the Abbott Liberal government want to jump the gun and create unnecessary conflict?

Senator Abetz circulated the explanatory memorandum for this legislation. Senator Abetz is a fellow senator from Tasmania who has been in this place for over 20 years, while my community has suffered preventable economic and social crises. As I read Senator Abetz's
explanatory notes to the Fair Work (Registered Organisations) Amendment Bill 2014 and reflected upon his work, I had great difficulty naming just one outstanding achievement that he has accomplished for Tasmania.

Turning to Senator Abetz's work: broadly speaking, according to the explanatory memorandum, this bill will:

- establish an independent watchdog, the Registered Organisations Commission (the Commission), to monitor and regulate registered organisations with enhanced investigation and information gathering powers;
- amend the requirements on officers' disclosure of material personal interests (and related voting and decision making rights) and change grounds for disqualification and ineligibility for office;
- strengthen existing financial accounting, disclosure and transparency obligations under the RO Act by putting certain rule obligations on the face of the RO Act and making them enforceable as civil remedy provisions; and
- increase civil penalties and introduce criminal offences for serious breaches of officers' duties as well as new offences in relation to the conduct of investigations under the RO Act.

The Liberal Party's key argument for this legislation is that they want to apply corporate standards of regulation to what they call registered organisations. Of course, what the Liberals call 'registered organisations' is what ordinary Australians call unions.

Unlike members of the Liberal Party in this Senate, including Senator Abetz, I do not have an ingrained hatred for members of unions. I acknowledge that on balance the union movement in Australia has been an agent for positive change and has protected and strongly advocated for the rights of working Australian families. If we did not have unions and organised labour and their fights for better wages and conditions then Australia would be a poorer, less fair country.

However, yes, I also acknowledge that the unions, just like the corporate world, have had their fair share of fraudsters, crooks and standover men who have ripped off their members and committed shocking crimes to satisfy their own greed and lust for power. Of course there is an ongoing need to monitor, investigate and enforce our laws wherever crime and corruption is found within any organisation, whether it be government departments, political parties, corporations or unions. Wherever there is a concentration of power and money, the risk for criminal or unethical behaviour increases, because, as we all know, if you are human, power corrupts and absolute power corrupts absolutely.

However, the problem I have when the Liberals say they want to apply corporate standards of regulation to the unions is that Australian corporate standards are not all that flash. You only have to look at the corruption in one of the Liberal Party's biggest election donors, the banks, to realise that Australian corporate standards are about as good as the standards and regulations governing the Australian union movement. If Australian corporate standards were gold standard, then we would not have National Party members of this place, like Senator Williams, calling for a royal commission into Australian bank corruption.

Let's bring some balance and clarity to this debate. At this stage of the debate, without all the facts from the royal commission, what is before us is the destruction of basic civil rights by this Liberal government while they suck up to their political donors and pat them on the back for corporate standards that they clearly lack. Tony Abbott has said:
This is important legislation because it is vital for our country that we have clean unions.

In that statement, there is an assumption that all unions are not clean; they are dirty and corrupt. That is a very big assumption given that it is coming from the leader of a political party with very close ties to an Australian banking industry with very big question marks over its own integrity while making record profits, and close ties with a big end of town known to sell their own grandmothers to improve shareholder return and profit margins. Mr Abbott's claims could easily be viewed as a case of pot calling kettle black.

I believe that an equitable solution to corruption in the workplace and broader Australian society is the establishment of a permanent corruption watchdog whose star chamber powers will apply to bankers and union members equally. They must be applied equally. Combine that body with reformed world's best whistleblower or public interest disclosure laws that protect, encourage and reward genuine whistleblowers to come forward and then corruption in the workplace, corruption in government departments, corruption in the board rooms and corruption in political parties will be properly addressed.

I make the point that this legislation can easily be viewed as an ideological attack on Australia's workers. It is part of a Liberal Party attempt to silence and weaken those who advocate on behalf of workers, because, once the Abbott Liberal government silences their workers, it becomes easy to exploit and steal money from them. We do not have to look far to see an example of a voiceless group of workers this Liberal government exploits and steals money from because they can. Of course, I am referring to members of our Australian Defence Force, who, unlike other public servants, are denied a voice by the very nature of their service. The Abbott Liberal government shamelessly exploits the Australian Defence Force's self-imposed silence and has forced an effective pay cut on them. Shame on you. Instead of speaking through a union or registered organisation, members of our Australian Defence Force suffer in silence while every member of the coalition in this chamber remains mute and allows this Liberal government to steal money from our Aussie diggers. One hundred and twenty-one million dollars per year is all that it would cost to deliver a fair pay rise to our sailors, diggers and members of our RAAF, but the PM refuses to do the right thing. Hopefully, the new PM will. Perhaps Malcolm Turnbull will remedy the defence pay injustice.

In closing, I oppose the legislation before the House because it is ideologically motivated, unfair, it is not rational and it undermines basic civil liberties and rights. I have to say, that seems to be one consistency the Liberal Party has.

Senator XENOPHON (South Australia) (17:27): I indicate that I will be voting for the measures in this bill, and I want to explain why. I make one comment in relation to Senator Lambie's contribution. She is right: the defence forces are not given a fair deal. They are not like other workers in the workplace in their ability to enterprise bargain. They cannot go on strike. I have a lot of sympathy for Senator Lambie's views in relation to defence forces. I do not have to urge her to keep up the campaign, because she is not giving up, so good on her.

I want to make it very clear that I am a strong supporter of unions. I believe they play a vital role in protecting the rights of workers as well as holding employers, and politicians, accountable. I have been fortunate to work with a number of union officials on a variety of issues, from antidumping measures and aviation safety improvements to support for local jobs in the transport sector and to improve workplace compensation schemes. I could not have
done that without the support of the union movement and working together with them on a whole range of issues.

Many of these officials have shared their concerns with me about the cases of corruption that have been exposed. Some of them have even privately shared their desire for unions to be more accountable so that any hint of poor practices can be stamped out. Indeed, in terms of the royal commission into union corruption, I note that the national secretary of the Australian Licensed Aircraft Engineers Association, Steve Purvinas, has publicly commended that inquiry, although he is in the minority. Other unions feel that they are being unfairly singled out or unfairly treated. The union officials that I speak to do not fear transparency or accountability; in fact, they want it. They want it because they want to show to their members and to critics of the union movement that they are doing the right thing. They want it because they have nothing to hide. Of course, there needs to be a balance between accountability and excessive red tape, but I believe this bill, as amended, is a reasonable compromise.

Indeed, it is worth reflecting on an article in the Financial Review on 30 July 2013, headed 'Judge slams penalties in union case', by Mathew Dunkley. It makes reference to the following:

A Federal Court judge has criticised the penalties available under laws governing misconduct by union officials who are found to have inappropriately used members' money or failed to comply with governance regulations.

It goes on to say:

… Federal Court Judge Anthony North said he was unhappy at the relatively small penalties on offer, particularly in relation to the cost of the court proceedings.

Justice North told the Melbourne court:

The penalties are rather beneficially low … beneficial to wrongdoers.

The report makes mention that:

Justice North's comments have come as the federal Coalition—
in opposition then—
promises to introduce stiffer penalties for unions, bringing them more into line with the rule for corporations.

That push has received support from Australian Workers' Union national secretary Paul Howes and retiring Labor frontbencher and former ACTU secretary Simon Crean.

It is not as though this legislation is friendless in terms of the general principle and thrust of this legislation. I note that Mr Howes as head of the AWU, one of the nation's largest unions, had backed the coalition's plans for tougher penalties for union bosses who misuse members' funds and said, quite rightly, that he had no issue with moves to impose punishments that were in line with those faced by company directors.

In an ideal world unions would exist to serve their members—and, in fact, I think the vast majority do so and do a very good job—but, unfortunately, in recent times we have seen some unions hijacked by unscrupulous individuals who have exploited these organisations for their own ends. Under the Corporations Act we set out the various requirements boards and executive officers must meet to ensure the reasonable protection of shareholders. We do this to codify in law the requirement that boards and executives work in the interests of their
shareholders and the understanding that investors have the right to reasonable protections under the law.

In my view, union members should have even greater protections than shareholders because the duty their union owes to them I believe goes much further than a financial return. People join unions in the belief and with the understanding that the organisation will support them and look after their rights. I think overwhelmingly that is the case. It is not about protecting a financial investment; it is about protecting them and their livelihoods. Members place a trust in their unions and a breach of this trust is in my view a serious matter that needs specific measures to target and prevent.

I think it is important to note that the government has taken into account the concerns raised by the Senate Education and Employment Legislation Committee in response to the previous version of this bill. Those responses are welcome. I think the government's amendments in the other place address some significant concerns about the application of the bill and any unintended consequences. In particular, they address concerns about the application of the financial disclosure measures and ensure only the relevant parties are required to disclose, as well as the retrospective aspect of the bill. I am not being critical of the previous government in relation to their amendments but I think there were some unintended consequences in respect of that, so I think this does actually improve it. Ultimately, I believe this bill strikes a reasonable balance between scrutiny and freedom of association. There are very clear reasons why there needs to be change. In my view, while these measures do place a burden on unions—an additional burden in some cases—they provide greater protections for their members, and those, as all genuine union representatives would agree, are the ones we need to protect.

I have two final comments. Ai Group's Chief Executive, Innes Willox, wrote to me recently in relation to this. He indicated that, as a registered organisation, the Ai Group was:

… pleased that the latest version of the Bill includes a number of amendments introduced by the Federal Government to address the Ai Group's concerns including:

- Providing that material personal interest disclosures will only be required by officers whose duties relate to the organisation's financial management …

If somebody is a volunteer shop steward on the floor there can be no reasonable basis for insisting that they be subjected to these. Also in there is:

- Inserting a list of practical exclusions from the disclosure requirements, based on those in the Corporations Act—

Innes Willox supports that—

- Providing for a threshold for financial disclosure obligations; and
- Allowing the Registered Organisations Commissioner to grant exemptions from the statutory training requirements for officers if an individual can demonstrate significant knowledge in the relevant areas.

These are all sensible amendments. I think that the Ai Group, whilst it is on the other side of the fence, has been shown to be an organisation that has cooperated well with the union movement. I think their former head, Heather Ridout, worked well with the union movement. I think Innes Willox is of the same tone and mindset to have a cooperative approach to
industrial relations. I think their concerns have been dealt with substantially. I think there has been an improvement in respect of this.

I have a couple of questions I want to put to the minister. He may respond to these in his summing up. Firstly, insofar as there may be unintended consequences in respect of this bill in terms of unnecessary red tape or unnecessary burden—not just teething problems with the legislation but also any systemic issues that need to be dealt with—what undertakings will the government give to review this on a regular basis to ensure that these matters are dealt with? Secondly, insofar as there will need to be some resourcing of the advisory service that is anticipated, can the minister indicate what those resources will be and how easy it will be for a union, large or small, that requires assistance in terms of complying with this legislation to get that assistance, particularly in the early phases of the legislation? These are matters to be dealt with.

Finally, in the broad context, there are other pieces of legislation that the government is putting up on industrial relations. I would like to think that this is the least controversial of all of those measures. They will be the subject of other scrutiny and other debate in due course. On balance, I support this legislation. I think it will overall enhance the accountability of unions to their members and I think the overwhelming number of union representatives in this country would welcome that.

Senator ABETZ (Tasmania—Leader of the Government in the Senate, Minister Assisting the Prime Minister for the Public Service and Minister for Employment) (17:36): I thank all honourable senators for their contribution to this debate on the Fair Work (Registered Organisations) Amendment Bill 2014 but, let's be frank, some more than others.

Registered organisations play an important role in the affairs of workplace relations in this nation. Registered organisations are given special privileges under the Fair Work Act. With those privileges should come countervailing responsibilities. Every year, hundreds of thousands of people pay hard-earned wages as dues of literally hundreds of dollars per annum to unions and small businesses, similarly to employer organisations in Australia. Those organisations are known as registered organisations. Regrettably, the rorts, the rackets and the rip-offs have been in the media on an almost daily basis. Think Williamson; think Thomson; think Transport Workers Union, the CFMEU and, indeed, the Australian Workers Union. The community strongly favours these reforms.

Until this parliament acts, Australia will not have a sufficiently robust system to ensure that the sort of corruption that was revealed during the numerous scandals can be uncovered and eradicated. It is already systemic. To do nothing is not a responsible option. It is simply no longer tenable to argue that the present system is adequate to deal with or discourage the kind of behaviour that we have witnessed. The government believes that the majority of registered organisations do the right thing and indeed, in many cases, maintain higher standards than those who are currently required or would be required under this legislation.

However, the recent investigations into the Health Services Union illustrate that, unfortunately, financial impropriety can and does occur under the current governance regime for registered organisations. The charges and allegations against the former ALP member of parliament Craig Thomson and the former ALP national president Michael Williamson, in their capacity as officers of the Health Services Union, are shocking and unacceptable. Mr Thomson is still facing allegations that his 2007 federal election campaign was partly funded
by siphoning union money without authorisation. Mr Williamson has pleaded guilty to misusing almost $1 million of Health Services Union members' funds. Mr Williamson has also been accused of destroying documents and hindering investigations.

Members of the Health Services Union are rightly asking how this gross breach of trust could happen. Questions have also arisen with numerous other registered organisations. Members of registered organisations are asking whether this could happen in their organisation. For those of us who worked in the parliament in earlier years, Mr Shorten and Senator Wong were the chief defenders of the Mr Williamson's and the Mr Thomson's of this world. Regrettably, the ALP and Greens political parties are the recipients of literally hundreds of thousands of dollars from these organisations. That is why they are so silent on matters of corruption in these organisations, and I fear that they are the beneficiaries of some of the 'funny' money that gets slushed through some unscrupulous trade union activities.

The Health Services Union investigation exposed significant shortfalls in the current framework. The investigation into Mr Thomson of the Health Services Union by the Fair Work Commission has cost taxpayers almost $4 million. The report took three years to produce and now, eight years after the initial breaches, court action is still being heard. Clearly, there is something wrong with the framework. That is why there is a need for this bill.

This bill will establish an independent watchdog, the Registered Organisations Commission, to monitor and regulate registered organisations with enhanced investigation and information-gathering powers to ensure that the law is being upheld. It will strengthen the requirement for officers' disclosure of material personal interests and related voting and decision-making rights, and it will change the grounds for disqualification and ineligibility for office. It will strengthen existing financial accounting, disclosure and transparency obligations under the registered organisations act by putting certain rule obligations on the face of the registered organisations act and making them enforceable as civil-remedy provisions.

It will increase civil penalties and introduce criminal offences for serious breaches of officers' duties as well as introduce new offences in relation to the conduct of investigations under the registered organisations act. It will fix the rushed amendments made by the former government that require even some shop stewards around Australia to disclose their husband's, wife's or children's income and assets. That was alluded to by Senator Xenophon's very considered contribution in this debate. They were requirements imposed by Mr Shorten, the current leader of the Australian Labor Party, and we want to fix that mess. More on that later.

I want to take some time to address some of the concerns that have been raised by senators. In relation to penalties, it is important that the government's expectation is that the top penalty will only be imposed, if at all, for the most heinous of offences. The penalties will be imposed by none other than the courts. We know that the courts have had an issue with the current framework, when even Federal Court judge Anthony North made these almost unprecedented comments last year. The penalties [under the current Act] are rather beneficially low...beneficial to wrongdoers. In other words, the penalty does not fit the gravity of the offence. So why would any senator seek to vote to keep that situation in place, when even Federal Court judge Anthony North has come to that conclusion? It is very compelling, very persuasive, and it is a matter of regret.
that the Australian Labor Party and the Greens have not succumbed to the logic and wisdom of Justice North on this occasion.

I simply pose the question: why should a corrupt union official who has ripped off hundreds of thousands of dollars from a union only be liable for a fine of $10,200 when, for the same corrupt conduct, a company director would be liable for five years imprisonment or a fine of $320,000? What is the material difference, what is the moral difference, between a company director ripping off shareholders and a union official—or, for that matter, an employer official—ripping off members? There is no moral difference, there is no material difference and the penalties should be as close as possible.

Some registered organisations have indicated concern that the new penalties will mean that they have will have difficulty persuading people to take on official responsibilities. If that is the case, it is a sad reflection and, quite frankly, I do not believe it. It is very simple: no wrongdoing, no penalty. And the penalty, of course, would in any event be court imposed. The only people who have anything to fear are those who are doing the wrong thing. A rigorous structure and process will be in place for investigation and prosecution of alleged wrongdoing. Officers who are operating within the law—which is, might I add, the overwhelming majority of them—will have no reason to fear taking on official responsibilities. The overwhelming number of officers who are already doing the right thing should be comforted in knowing that unlawful behaviour will be dealt with, thus ensuring ongoing member confidence in registered organisations as a whole.

Very importantly, I would invite honourable senators to recognise that this bill actually cleans up the mess created by Mr Shorten and the former government. Our legislation will amend the disclosure requirements for officers of registered organisations, to more closely align them with the Corporations Act so that the requirement to disclose material possession personal interests applies—and I stress this—only to those officers whose duties relate to the financial management of the organisation. That is a change we would make from the current law. I simply say to those who have railed against these provisions and the others I go through: keep in mind: vote this bill down and all those provisions will remain and we will be seeking from the Fair Work Commission their attitude in relation to pursuing all these requirements that the Labor Party put into the legislation and that Senator Bilyk and others championed.

We will also remove the more invasive disclosure requirements for officers to report family members’ income and assets, thereby more closely aligning with the Corporations Act. That exists now, ham-fistedly put into the legislation by Mr Shorten, and it now has dire and inappropriate consequences for those who want to be involved in the trade union movement or employer organisations. The bill will align the material personal interest disclosure requirements for officers so that disclosures only need to be made to the governing body and not to the entire membership. Mr Shorten’s legislation now requires it to go out to the entire membership—a complete breach of privacy. But where are the Greens on this? Nowhere to be heard on this breach of privacy, because it is okay because Mr Shorten did it. You can actually get rid of this provision by supporting this legislation.

We will limit disclosures of related party payments to payments made above a certain prescribed threshold and with certain other exceptions based on those exceptions in the Corporations Act for member approval of related party transactions, and we would provide
the Registered Organisations Commissioner with the discretion to waive training requirements of officers of registered organisations. For example, if a member is a certified and practising accountant, they would not have to go through the course being provided by the Fair Work Commission—another example of Mr Shorten’s ham-fisted approach. The unions want this removed—they admit that; they acknowledge that—but they do not want the extra penalties, and that is why they have taken this regrettable attitude to this legislation, and that is why the Labor Party, in lock-step with them, are doing the same.

Let me be very clear: unless these amendments pass this parliament, officials of registered organisations will run the very real risk of being in breach of the laws as they stand today in relation to the issues identified by the opposition themselves. When they are enforced and all the people out there rightly complain about the enforcement of these provisions, we will say to them: ‘Thank the Australian Greens and the Australian Labor Party for not removing these provisions when they actually had the opportunity of doing so and assisting in cleaning up certain elements in the trade union movement.’

It does seem passing strange that we get lectures from those opposite, including the crossbench, that this is somehow an ideological attack on workers and that we somehow believe that all unions are corrupt. Even if you might think that that is what we think, you are wrong. Even if you were to park that to the side, why is it that Paul Howes, a former secretary of the Australian Workers Union, was able to say on 26 November 2012:

The reality is I do not have any issue with increasing the level of requirements and penalties on trade unions for breaching basic ethics like misappropriation of funds.

It is pretty simple stuff. Mr Howes does not have a problem. Another former leader of the Australian Workers Union and indeed of the Labor movement, now Fair Work Commissioner, Ian Cambridge, made similar commentary, as did former Labor Attorney-General Robert McClelland and two former ACTU presidents and Labor ministers, in Martin Ferguson and Simon Crean. They are somehow embarked on this ideological attack on workers?

No, they are decent trade union leaders that have seen a once proud organisation brought into the gutter through corruption, and they want to see it cleaned up, and we as a government do as well.

I note that our friends in Palmer United have issued a media release today saying that they would abstain from voting on any 'legalisation' proposals. Here we are not seeking to legalise anything—in fact, we are trying to ensure that certain things are made illegal—so I would invite them to vote for us on this matter, albeit I think there might be a spelling mistake and they meant ‘legislation’ rather than 'legalisation'. But I will take it at its face value and say that we are not seeking to legalise anything with this; we are in fact intending to make illegal certain activities.

In relation to Senator Xenophon, I do give him an undertaking that, in the event that there are any unintended consequences, of course we as a government would seek to deal with them in an expeditious manner, because what we want out of this is a clean system of registered organisations, be they trade unions or employer organisations, so that members can have confidence in the way that their organisations are run. In relation to the advisory service, that is already being provided as we speak—albeit in limited form, I would suggest—by the Fair Work Commission. When, if this legislation is passed, the Registered Organisations
Commission becomes a node within the Fair Work Ombudsman, that educative role would, of course, continue.

Can I now quickly return—time escapes—to those matters referred to by Senator Cameron in one of his excellently impassioned speeches—but completely devoid of facts. He asserted that the Ai Group had stated their opposition to the legislation. We heard from Senator Xenophon that they actually support it. For Senator Cameron to come into this place and assert one thing, whereas Senator Xenophon can actually quote a letter saying the exact opposite, indicates the paucity of factual information that Senator Cameron brings to these debates.

He suggests that the bill proposes to amend the act to restrict officers from taking part in certain decisions. It goes for page after page. Each and every one of his allegations relates to the legislation that is in place already, courtesy of the Australian Labor Party's ham-fisted approach in an attempt to gazump us when we announced our policy for a Registered Organisations Commission. In his ham-fisted approach, all the ills that Senator Cameron refers to are in fact already in the legislation, and we seek to remove them from the legislation and do him a favour. The only thing we are really asking for is that there be an increased regime of penalties and a bit more transparency. Senator Cameron, the Labor Party and the Greens want to live with all these things that they are against for fear of increased penalties. Why are they scared of the courts imposing penalties if a wrongdoing has been uncovered?

In relation to another senator, who suggested that the right to silence was somehow being removed, it is already there. There is no change in that area whatsoever. If that is a reason to vote against the legislation, because of something that is already in the legislation, it is a bit hard to engage in that debate.

In the final seconds, can I simply say that this is a policy on which the government ran at the last election. It was well and truly ventilated and put before the Australian people. There were no ifs and buts. People knew exactly where we stood on this important issue. We introduced this legislation within the first sitting week of the parliament because we considered it to be so important, and now that it has come before the Senate again I invite the Senate to support the legislation.

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

The Senate divided [18:01]

(The President—Senator Parry)

Ayes ....................30
Noes ....................33
Majority .................3

AYES

Abetz, E
Birmingham, SJ
Canavan, M.J.
Day, R.J.
Fawcett, DJ (teller)
Fifield, MP
Johnston, D

Back, CJ
Bushby, DC
Cash, MC
Edwards, S
Fierravanti-Wells, C
Heffernan, W
Leyonhjelm, DE
AYES

Macdonald, ID
McGrath, J
Nash, F
Parry, S
Reynolds, L
Ryan, SM
Sinodinos, A
Williams, JR

Mason, B
McKenzie, B
O'Sullivan, B
Payne, MA
Ronaldson, M
Seselja, Z
Smith, D
Xenophon, N

NOES

Bilyk, CL (teller)
Cameron, DN
Dastyari, S
Gallacher, AM
Ketter, CR
Lazarus, GP
Ludlam, S
Marshall, GM
McLucas, J
Moore, CM
O'Neil, DM
Polley, H
Rice, J
Singh, LM
Urqhart, AE
Waters, LJ
Wright, PL

Bullock, J.W.
Conroy, SM
Di Natale, R
Hanson-Young, SC
Lambie, J
Lines, S
Lundy, KA
McEwen, A
Milne, C
Muir, R
Peris, N
Rhiannon, L
Siewert, R
Sterle, G
Wang, Z
Whish-Wilson, PS

Question negatived.

Corporations Legislation Amendment (Deregulatory and Other Measures) Bill 2014

Second Reading

Debate resumed on the motion:

That this bill be now read a second time.

Senator McLucas (Queensland) (18:03): On behalf of the Labor Party, I make a contribution to the Corporations Legislation Amendment (Deregulatory and Other Measures) Bill 2014. This bill amends the Corporations Act 2001 and the Australian Securities and Investments Commission Act 2001. Labor supports the bill and will not be proposing any amendments. I note that the bill has been the subject of an inquiry by the Senate Economics Legislation Committee, which recommended that the bill be passed. There are a number of measures contained within this bill and I will speak to each of them separately.

Firstly, on the 100-member rule, the changes in items 1, 2 and 10 of schedule 1 to the bill amend the Corporations Act 2001. These changes are designed to better balance the rights of shareholders to raise issues with a company with the cost to companies of being required to call and hold a general meeting. It repeals the so-called 100-member rule, which creates an
obligation on a corporation to hold a general meeting at the request of 100 or more shareholders. As cited in the Bills Digest from the Parliamentary Library, this provision is not a new one, having been introduced into the Companies Act 1981 by Attorney-General Gareth Evans in 1983. However, since that time there has been significant change in the composition of shareholders as well as the number of large listed companies in Australia, a result of economic reforms undertaken by both sides of politics. Today, the growth in retail shareholders means the specific number of 100 is often a very small proportion of the overall membership of a company. I note that amongst major countries Australia is the only one that applies a numerical test for convening an extraordinary general meeting regardless of share capital held.

The removal of this element of the 100-member rule was of particular concern to Senator Xenophon, who submitted a dissenting report to the Senate Economics Legislation Committee's inquiry. Importantly—and I want to make this point very clear—the proposed changes do not remove the ability of 100 or more shareholders to add items to scheduled annual general meetings and to instigate debate as an agenda item at these meetings. This retains the right for 100 or more members to raise issues of concern, as exists under the current act, without the often significant cost to shareholders of scheduling extraordinary meetings. The changes we are dealing with today do not affect the right of 100 shareholders to put a resolution to be considered at a general meeting or to distribute a shareholder statement with the notice convening that meeting. The changes do not affect the ability of 100 or more shareholders to engage to raise points of particular interest and to hold companies to account. That is as it should be.

Shareholder activism is an important component of corporate governance and that needs to be accepted. Small shareholders have a legitimate right to put up questions to boards of public companies and to raise issues of concern. Shareholders should be able to put issues on the annual general meeting agenda and to instigate a debate at that meeting. This right is of particular importance to retail shareholders, who have limited opportunities to meet with the company prior to the annual general meeting. These rights will not change with the proposed legislation.

Labor recognises that the 100-member rule, though, can impose significant costs on business and that these can be, to some people's minds, unreasonable. For example, in the two years from late 1999 to late 2001, NRMA was forced to call 12 EGMs to consider resolutions removing directors, each of which incurred several million dollars in costs and resulted in none of the relevant resolutions being passed. In 2012, Woolworths was compelled to call an extraordinary general meeting in relation to one-dollar limits on poker machines. The cost of notifying its shareholders alone was $500,000. The hosting of the meeting meant that Woolworths incurred further costs. The resolution received just 2.5 per cent support.

In another example, a company based in South Australia, Santos, was compelled to hold an extraordinary general meeting following a call from more than 100 individual shareholders to abandon its Narrabri coal-seam gas project in New South Wales. A resolution not to abandon this project subsequently passed, with approval from 99 per cent of the shareholders.

No-one objects to the fact that people might have different views. Shareholders should be able to raise concerns legitimately through a number of mechanisms, but not at significant cost to other shareholders. As I mentioned previously, Australia is currently alone in
providing for a shareholder test that applies regardless of how much capital the requisitionists hold. It is more common that requisitionists must hold at least five to 10 per cent of the shares before they can call a general meeting. Again, no-one disputes the fact that shareholders have a right to question directors and decisions made by a company, but it should not be at a cost to other shareholders. So Labor will support this change.

The second issue goes to remuneration reporting requirements. Items 3 to 5 and 10 of schedule 1 to this bill amend the Corporations Act to improve and streamline remuneration reporting requirements. Currently, disclosing entities that are companies must disclose for each member of the key management personnel the value of options that lapse during a financial year. Disclosing entities that are companies must also disclose for each member of the key management personnel the percentage value of the remuneration that consists of options. This bill makes changes so that listed disclosing entities that are companies must disclose for each member of the key management personnel only the number of options that lapse during a financial year and the financial year in which those options were granted. There will no longer be an obligation to disclose the value of options that lapse or the percentage value of remuneration that consists of options for each member of the key management personnel.

Currently, all disclosing entities that are companies are also required to prepare a remuneration report, regardless of whether they are listed or unlisted. This bill changes that, so that unlisted disclosing entities that are companies are no longer required to prepare a remuneration report. Listed disclosing entities continue to be required to prepare a remuneration report.

Labor has a proud record of reforming executive remuneration by introducing the two-strikes test, that allows shareholders concerned with the executive remuneration to vote to spill the board under certain circumstances. Labor supports improving the disclosure of executive remuneration information in Australia. There have been concerns raised by shareholders and users of remuneration reports that currently the reports contain some information that was of limited benefit or which can be found at other places in the annual report.

Labor also supports removing the unnecessary requirement for unlisted disclosing entities that are companies to prepare a remuneration report. Unlike listed entities, they are not required to have their remuneration report adopted by shareholders through a non-binding resolution and are not subject to the two-strikes test.

The third issue goes to clarifying the financial year. Item 6 of schedule 1 to this bill amends the Corporations Act 2001 to clarify the circumstances in which a financial year may be fewer than 12 months. There is confusion about the conditions under which directors may determine that a financial year is shorter than 12 months. Currently, section 323D sets out how companies, registered schemes and disclosing entities may determine the length of their financial year. While an entity's financial year is expected to be approximately 12 months long, entities can determine otherwise in cases where, for example, an entity needs to modify its financial year by up to seven days to accommodate week-based internal reporting frameworks or where an entity needs to synchronise its financial year in order to prepare consolidated financial reports.
However, section 323D(2A) allows entities to determine that their financial year is fewer than 12 months if none of their previous five financial years have been fewer than 12 months, the shorter financial year commences at the end of the previous financial year and the decision is in the best interests of the entity. Stakeholders have raised concerns about the interaction between this provision and the operation of subsection 323D(2), which requires that a financial year is 12 months unless determined by the directors to be a period that is shorter or longer than 12 months by up to seven days. There is confusion surrounding whether taking advantage of the flexibility in section 323D(2) would trigger the five-year period in which an entity is precluded from assessing the benefits offered by section 323D(2A). Similarly, subsection 323D(3) requires an entity to synchronise its financial year end with its parent entity when it becomes a controlled entity. Again, stakeholders have raised concerns that this provision may trigger the five-year period in which an entity is precluded from accessing the benefits offered by section 323D(2A).

The bill seeks to clarify that directors may determine that a financial year is shorter than 12 months by more than seven days irrespective of whether during an entity's previous five financial years the directors have determined that the financial year is shorter than 12 months by up to seven days or determined to synchronise the financial year to prepare consolidated financial statements. Labor supports the measures in this bill that clarify the circumstances and conditions under which directors can alter and determine the financial year is shorter than 12 months by more than seven days. This remove the unintended confusion arising from changes in 2010 that were intended to make it easier for directors to alter financial year end dates.

The next issue is streamlining auditor appointments for companies limited by guarantee. Items 7 to 9 of schedule 1 to this bill amend the Corporations Act 2001 to exempt certain companies limited by guarantee from the need to appoint or retain an auditor. Currently all public companies, including companies limited by guarantee, are required to appoint and retain an auditor. This bill changes this so that small companies limited by guarantee and those companies limited by guarantee that have their financial reports reviewed are not required to appoint or retain an auditor. This means that companies that are not required to undertake an audit are no longer required to appoint and retain an auditor. All other public companies are required to appoint and retain an auditor as is current practice. Labor supports these changes that remove unnecessary costs on business by supporting the requirement for companies to appoint and retain an auditor even if they are not required to conduct an audit. This change is expected to provide the greatest benefit to not-for-profit community organisations, allowing them to better service our communities.

The next issue is the Takeovers Panel. Part 1, items 1 and 2 of schedule 2 to the bill amends the Australian Securities and Investments Commission Act 2001 to improve the operation of the takeovers panel by allowing takeover matters to be dealt with more efficiently. Currently, the president and members of the Takeovers Panel may only participate in proceedings if they are within Australia. These changes mean the President of the Takeovers Panel may give a direction in respect of members who are to constitute the panel whether or not the president is in Australia. Further, members of the Takeovers Panel may participate in proceedings whether or not the members are in Australia. As technology improves and the world becomes ever more connected, it is sensible to alter legislation to
reflect that change. This bill will allow members of the Takeovers Panel to participate in proceedings if they are physically located outside of Australia at the time. Labor supports this sensible change to allow the more efficient resolution of disputes.

Now I turn to the Remuneration Tribunal. Part 1, items 3 to 8 and part 2, item 9 of schedule 2 to this bill amend the Australian Securities and Investments Commission Act 2001 to extend the Remuneration Tribunal's remuneration-setting responsibility to include certain Corporations Act bodies. Currently, the ASIC Act provides that the responsible Treasury portfolio minister determines the terms and conditions, including remuneration, of the chairs and members of the Financial Reporting Council; the Chair of the Australian Accounting Standards Board; and the Chair of the Auditing and Assurance Standards Board. The ASIC Act also provides that the Financial Reporting Council is responsible for determining the terms and conditions, including remuneration, of the offices held by the members of the Australian Accounting Standards Board and the Auditing and Assurance Standards Board.

This bill brings responsibility for determining the remuneration and full-time member recreation leave entitlements of the chair and member positions of the Financial Reporting Council, the Australian Accounting Standards Board and the Auditing and Assurance Standards Board within the Remuneration Tribunal's jurisdiction. The Remuneration Tribunal has specialist skills in reviewing and determining remuneration and is therefore better placed to determine the remuneration of these offices. Moreover, it will ensure consistency in the remuneration setting arrangements between the three bodies and other statutory office holders.

Currently, the responsible Treasury portfolio minister determines the terms and conditions, including remuneration, of the chairs and members of the Financial Reporting Council, the Chair of the Australian Accounting Standards Board and the Chair of the Auditing and Assurance Standards Board. The ASIC Act also provides that the Financial Reporting Council is responsible for determining the terms and conditions and the offices held by the members of the Australian Accounting Standards Board and the Auditing and Assurance Standards Board.

Labor supports the provisions in this bill that brings responsibility for determining the remuneration and full-time-member recreation leave entitlements of the chair and members within the Remuneration Tribunal's jurisdiction. There is no question that that is the best place for them and where they ought to be. The changes that are contained in this bill are supported by Labor. They were changes that Labor was progressing through and matters that had been worked on with bipartisan support across both sides of this chamber, and within the industry and the sector itself. It is good, sensible policy. I offer Labor's support for these measures, and for the bill as a whole.

**Senator SESELIJA** (Australian Capital Territory) (18:21): I want to add my words in support of the Corporations Legislation Amendment (Deregulatory and Other Measures) Bill 2014. In the year and a half since coming to office, the Abbott government has done significant things for our nation. We have repealed the carbon tax—that Labor want to bring back; we have repealed the mining tax that, of course, made no money; we have stopped the boats and the deaths at sea; we have signed free trade agreements with our Asian partners and we are getting on with the job of fixing the debt and deficit legacy of the Labor government.
Those of us on this side of the chamber are also committed to removing unnecessary red tape on business—red tape that hurts productivity, halts investment and innovation and stifles job creation. It bears repeating that, since the 2013 election, the coalition government has more than doubled our election target of red-tape reduction, announcing over 400 measures across the whole of government at a net reduction of over $2.1 billion in compliance costs. As part of the 2014 spring repeal day on 29 October, the government continued this work by removing nearly 1,000 pieces and over 7,200 pages of legislation and regulation. This continues the work of the first repeal day in March, when the government removed over 10,000 pieces and 50,000 pages of legislation and regulation—over $700 million of compliance costs.

In contrast, under the previous government we saw Labor introduce more than 21,000 additional regulations, putting roadblocks in the way of investment and job creation, despite Kevin Rudd's promise of a 'one regulation in, one regulation out' policy. Of course, we all remember Craig Emerson saying in 2008 that Labor would take a giant pair of scissors to the red tape that was strangling small business.

This is important work that is ongoing, and it is important to remember that it is not deregulation for its own sake. This is removing regulations to boost productivity, to build jobs and to build the economy. It is not just about removing regulations, though; it is also making regulations better. We on this side do agree that sometimes regulation is necessary, but when it is it needs to be targeted and it needs to be effective. Businesses have told the government that there is work to do in improving regulations and there are ways we can build regulations to build productivity. We know that productivity has been flatlining in this country. We know that in 2014 Australia ranked 124 out of 148 countries for burden of government regulation in the World Economic Forum global competitiveness index. Whilst we did go forward four spots last year, we are still well behind where we need to be.

The Productivity Commission has also estimated that regulation compliance costs could amount to as much as four per cent of Australia's GDP, so it is vital we do more to help free businesses of unnecessary burdens and costs so they can contribute to our economy and build growth. This reform package reduces the regulatory burden imposed on Australian businesses and it is estimated it will reduce business compliance costs by around $14 million per year. The bill also contains measures to make government processes more efficient, reflecting the government's commitment to seek opportunities to improve efficiencies in whatever way we can. The measures contained in the bill will better balance the rights of shareholders to raise issues with a company and the cost to companies of being required to call and hold a general meeting. It will improve and reduce remuneration reporting requirements, clarify the circumstances in which a financial year may be less than 12 months, exempt certain companies limited by guarantee from the need to appoint or retain an auditor, improve the operation of the takeovers panel and extend the Remuneration Tribunal's remuneration-setting responsibility to include certain statutory bodies.

I would like to talk about each of these measures in turn. Firstly, the abolition of the hundred-member rule: as part of this package the government is removing the requirement for directors of a company to hold a general meeting on the request of 100 shareholders. This seeks to strike a better balance between the interests of minority shareholders and shareholders as a whole. In large corporations, the hundred-member rule allows groups
holding less than one per cent of voting shares to force a company to incur the significant costs of holding a general meeting. Often they do this and have the vast majority of shareholders reject their motion. For example, in 2012 the hundred-member rule was used by GetUp! to require Woolworths to spend nearly $2 million to hold a general meeting at the behest of just 210 shareholders, or 0.05 per cent of all shareholders. At the general meeting the resolution put forward by this group was rejected by over 97 per cent of shareholders. It is certainly important that all shareholders have their say, and it will still be the case that they can with this reform; however, it is also important that these situations do not impose disproportionate costs on business. One hundred shareholders will continue to be able to put a resolution on the agenda at a general meeting and circulate a statement to other shareholders; in addition, shareholders with at least five per cent of the votes that may be cast at a general meeting will continue to be able to require the directors hold a general meeting. This measure is supported by both industry stakeholders such as the Australian Institute of Company Directors, the Governance Institute of Australia and the Business Council of Australia as well as shareholder groups such as the Australian Shareholders' Association. It is estimated this measure will save business around $1.5 million per annum in compliance costs. I am aware that some senators, particularly Senator Xenophon, have raised questions and concerns about this provision. I assure Senator Xenophon and others who may be concerned that the government still believes shareholders should have their say, and they will have their say. That is why five per cent of shareholders can still trigger a general meeting, and a group of 100 shareholders will still be able to circulate statements and put resolutions on agendas for general meetings; they will still be heard.

The next important element of this package is that the government is improving the disclosure of executive remuneration information in Australia by ensuring the information provided is useful for shareholders and investors. This measure removes the requirement for unlisted disclosing entities to prepare a remuneration report. It is estimated that this measure will save unlisted disclosing entities around $8.5 million per annum in compliance costs. The remuneration report is simply not relevant for unlisted disclosing entities such as, for example, unlisted companies, unlisted debenture issuers such as Banksia Securities, and unlisted managed investment schemes. Unlike listed entities they are not required to have their remuneration report adopted by shareholders through a non-binding resolution and are not subject to the two-strikes test. Australia's two-strikes rule allows shareholders to vote to spill the board if the remuneration report receives a 'no' vote of 25 per cent or more, two years in a row. This measure also improves the usefulness of information on options granted to key management personnel. It has been informed by feedback from users of remuneration reports. Rather than reporting the value of lapsed options, this will be replaced with a requirement to disclose the number of lapsed options and the year in which the lapsed options were granted. The requirement to disclose information on the percentage of remuneration consisting of options will be removed, as this can already be calculated from other information in the remuneration report. The government is also clarifying when entities—companies, registered schemes and disclosing entities—can change their year-end dates.

**Sitting suspended from 18:30 to 19:30**

Senator SESELJA: I believe I was just starting to speak about the aspects of the bill relating to changing financial year-end date. As I said, the government is clarifying when
entities—companies, registered schemes and disclosing entities—can change their year-end dates. This measure will put beyond doubt the conditions under which directors can determine that a financial year is to be shorter than 12 months by more than seven days. The bill clarifies but does not change the legal operation of the existing law. These are technical amendments which will only affect a small number of businesses. They will predominantly affect entities that have had to amend financial years due to structural changes.

The government is also removing the requirement for certain companies limited by guarantee that are not required to undertake an audit to appoint or retain an auditor. Currently all public companies are required to appoint an auditor even if they are not required to conduct a full audit of their financial reports. This is a nonsensical and completely arbitrary piece of regulation that unnecessarily imposes a $4 million cost burden on business. We expect this change will largely benefit companies with a not-for-profit focus—for example, sports and recreations related organisations, community services organisations, education related institutions and religious organisations. This measure will ensure that these organisations can focus on providing services for the community rather than wasting money and time on needless red tape.

An additional measure is extending the Remuneration Tribunal's jurisdiction. This measure gives the Remuneration Tribunal the authority to set the remuneration of the chair and members of the Financial Reporting Council and the Auditing and Assurance Standards Board. The Remuneration Tribunal is an independent body that has specialist skills in reviewing and determining remuneration. This measure will bring the setting of remuneration of those office holders into line with the remuneration setting of public officers more broadly, and will improve the efficiency of government processes.

Finally, measures to improve the efficiency of the Takeovers Panel. This measure will allow Takeovers Panel members to perform panel functions while overseas. This removes an outdated procedure and reflects the reality that the vast majority of panel members are engaged in employment separate to their Takeovers Panel commitments, which can include a significant amount of overseas travel. This will likely have a positive impact on business through the more efficient resolution of applications being considered by the Takeovers Panel.

In conclusion, there are whole range of measures in this bill—some technical, some highly practical—but each of them goes some way to reducing the burden of regulation that keeps our economy from reaching its full potential. The government is committed to reducing these burdens and to building a strong economy. We want to build on the gains that we have seen: by removing thousands of pieces of regulation in the past; by getting rid of burdensome taxes, like the carbon tax and the mining tax; by freeing up hundreds of billions of dollars of growth through environmental approvals. This latest piece of legislation is simply another piece of the puzzle that will help to grow our economy and help to make it easier for businesses to thrive in this country. I commend this bill to the Senate.

**Senator XENOPHON** (South Australia) (19:33): My brief contribution relates to two aspects of this legislation that I have very serious concerns about—in fact, I oppose them—and I want to state that on the public record.

There is one amendment that relates to the issue of stock options. At the moment a listed entity needs to disclose stock options that key management personnel are given; whether they
are offered and whether they have lapsed or not. That is something that the market knows about, something that the market hitherto has been aware of, but this bill seeks to remove that. I think that is a retrograde move. I think we need to know about those stock options, even if they are not taken up, in the context of a company's behaviour and the inducements given to senior personnel. If it is not taken up, there may well be a reason for that that could be informative of the marketplace.

The other amendment that I am particularly concerned about relates to the 100-member rule contained in the Corporations Act. This rule bestows certain powers on members of a company who are entitled to vote at a general meeting of that company. These powers include the ability to require directors of a company to hold an extraordinary general meeting, to put a resolution on the agenda of general meetings and to circulate material to other members of the company. This bill will remove the first of those powers—namely, the ability of 100 members to call for an extraordinary general meeting of the company. Instead, an extraordinary general meeting could only be called when members making up five per cent of the total shareholding of the company agree to call one.

In its submission, the Australia Institute emphasised that shareholder rights form an essential part of corporate governance. It stated:

The removal of the rule would result in a reduction in shareholder rights, which form an essential element of corporate governance. Regardless of the retention of the abovementioned 100 member provisions, removal of subsection 249D(1) limits corporate accountability to the owners of the company. In addition, it would be an obstacle to civil society, which increasingly plays an important role using shareholder activism in pursuit of socially responsible corporate behaviour.

In November 2012, over 200 Woolworths shareholders, with the help of GetUp!, called for an extraordinary general meeting of the company in order to vote on a resolution in relation to Woolworths' ownership of poker machines. Woolworths, through its hotel arm, the ALH Group, owns approximately 13,000 poker machines and makes over $1.2 billion in poker machine losses. If successful, the resolution would have prohibited Woolworths from being involved in the poker machine industry unless it agreed to the $1 maximum bet reform as recommended by the Productivity Commission—$120 in hourly losses. I know that Senator Di Natale from the Greens and my crossbench colleague Senator Madigan have been long time advocates of this.

While the resolution was ultimately defeated, it nonetheless enabled shareholders to force Woolworths and its shareholders to consider whether profiting from poker machine losses is socially responsible corporate behaviour. I was at that meeting. The questions asked were relevant, and at least there was some engagement with the board. On that occasion, the extraordinary general meeting occurred before the AGM because there was a court case in respect of that so that the company would not have to be up for the expense of two separate meetings and the costs involved. I understand that. I would have thought allowing at least 100 shareholders the right to call a company to account on specific items that they can set on the agenda as part of an extraordinary general meeting is a good thing in corporate governance. I think it is the wrong approach to take. The barrister Peter R Graham QC in his submission characterised this bill as destructive rather than deregulatory, and I agree with him.
I cannot support those elements of the bill, both the 100 shareholder rule and the disclosure of remuneration reporting requirements, because they are not removing red tape but are actually removing accountability on the part of public companies.

Senator NASH (New South Wales—Deputy Leader of The Nationals in the Senate and Assistant Minister for Health) (19:38): Firstly, I would like to thank those senators who have contributed to this debate. The bill makes a number of amendments designed to reduce the regulatory burden in Australia. The amendments are collectively estimated to cut business compliance costs by around $14 million per year.

Schedule 1 to this bill focuses on reducing the cost to businesses operating in Australia of regulatory requirements under the Corporations Act 2001. Firstly, schedule 1 to this bill removes the ability for 100 shareholders of a company to request a general meeting. This change ensures that company resources are no longer spent on meetings requested by only a very small minority of shareholders. We have, however, maintained rights that will still allow small shareholders to engage with companies. Groups of 100 shareholders of a company will still be able to place items on the agenda of a general meeting and circulate material to other shareholders. Shareholders of a company that hold five per cent of the voting rights in aggregate will also still be able to request a general meeting.

The bill also improves the disclosure of executive remuneration in Australia by replacing disclosures that companies currently have to make in relation to options with simpler disclosures that are more useful to shareholders. Unlisted disclosing entities will also no longer be required to prepare a remuneration report.

The bill also clarifies when entities can change their financial year end dates, allowing entities to confidently utilise the provisions in the Corporations Act to alter the length of their financial year. Stakeholders have been calling for this clarity for a number of years and are fully supportive of this amendment.

Finally, schedule 1 to this bill removes an anomaly under the Corporations Act that requires certain companies limited by guarantee that are not required to undertake an audit to nevertheless appoint an auditor. This change will benefit smaller companies with a not-for-profit focus in particular as the current relief from reporting and auditing requirements for such companies is designed in part to address their limited resources.

Schedule 2 to this bill focuses on improving the efficiency of government processes under the Australian Securities and Investments Commission Act 2001 reflecting the government's commitment to identifying cost savings and efficiencies within its own processes. Schedule 2 to this bill improves the efficiency of the operation of the Takeovers Panel. Schedule 2 to this bill also extends the remunerations-setting responsibility of the Remuneration Tribunal to the Financial Reporting Council, the Australian Accounting Standards Board and the Auditing and Assurance Standards Board.

In summary, this bill reduces the costs borne by Australian businesses of corporate regulations by around $14 million per year. It reflects this government's commitment to reduce the regulatory burden for Australian business and allowing businesses to focus on what it is they should be doing—that is, running their business. I commend this bill to the Senate.
The ACTING DEPUTY PRESIDENT (Senator Whish-Wilson): The question is that this bill be now read a second time.

The Senate divided. [19:45]

The Acting Deputy President—Senator Whish-Wilson)

Ayes ......................33
Noes ......................12
Majority .................21

AYES

Back, CJ
Cameron, DN
Colbeck, R
Day, R.J.
Ketter, CR
Lines, S
Macdonald, ID
Mason, B
McKenzie, B
Moore, CM
Nash, F
O’Sullivan, B
Reynolds, L
Seselja, Z
Sinodinos, A
Sterle, G
Williams, JR

Bushby, DC
Canavan, M.J.
Conroy, SM
Gallacher, AM
Leyonhjelm, DE
Lundy, KA
Madigan, JJ
McGrath, J
McLucas, J
Muir, R
O’Neill, DM
Peris, N
Ruston, A (teller)
Singh, LM
Smith, D
Urquhart, AE

NOES

Di Natale, R
Lambie, J
Milne, C
Rice, J
Waters, LJ
Wright, PL

Hanson-Young, SC
Ludlam, S
Rhiannon, L
Siewert, R (teller)
Whish-Wilson, PS
Xenophon, N

Question agreed to.
Bill read a second time.

Third Reading

The ACTING DEPUTY PRESIDENT (Senator Whish-Wilson) (19:47): 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 NASH (New South Wales—Deputy Leader of The Nationals in the Senate and Assistant Minister for Health) (19:48): I move:

That this bill be now read a third time.

Question agreed to.
Bill read a third time.
BUSINESS

Rearrangement

Senator FIFIELD (Victoria—Manager of Government Business in the Senate and Assistant Minister for Social Services) (19:48): I move:

That government business order of the day No. 3, National Water Commission (Abolition) Bill 2014, be postponed till the next day of sitting.

Question agreed to.

BILLS

Tax and Superannuation Laws Amendment (2014 Measures No. 5) Bill 2014

Second Reading

Debate resumed on the motion:

That this bill be now read a second time.

Senator CONROY (Victoria—Deputy Leader of the Opposition in the Senate) (19:49): I rise to speak on the Tax and Superannuation Laws Amendment (2014 Measures No. 5) Bill 2014. There are some schedules here which the Labor Party support and some schedules here which we will oppose in the other place.

Honourable senators interjecting—

The ACTING DEPUTY PRESIDENT (Senator Whish-Wilson): Excuse me, Senator Conroy, just one moment. All those senators having conversations who do not need to be in the chamber—I think they know who they are, Senator Conroy—could you please leave the chamber. Thank you.

Senator CONROY: Firstly, in schedule 1, this bill seeks to abolish the mature-age tax offset. Labor will support this measure. This was a process started by Labor in government. It is a sensible saving. The government have their own measures that they have put in place to replace this measure, and we will not stand in the way of the passage of this particular schedule. It represents a considerable saving, and Labor is always prepared to support sensible savings put forward by the government. Of course, unfortunately, 'sensible' and 'savings' are two words that are not often associated with this government. But this is an exception, and we will support this measure.

To be clear: Labor is in favour of measures that support older Australians who want to work, but wage subsidies are not enough. Labor knows that a comprehensive mature-age employment agenda needs a comprehensive suite of measures. That is why we established the seniors work bonus, increased the superannuation guarantee, established an Age Discrimination Commissioner, reformed the age pension to make it strong and sustainable, and set up the Advisory Panel on Positive Ageing. By contrast, this government has slowed the strengthening of the super system, has scrapped seniors concessions and wants to cut pensions.

The Abbott government announced in the 2014-15 budget that it was abolishing the mature-age-worker tax offset. The previous Labor government had commenced the phase-out of MAWTO in the 2012-13 budget, limiting it to taxpayers born before 1 July 1957. That measure had an estimated $255 million gain to revenue over the then forward estimates.
period. At the time, the then Labor government stated: ‘The MAWTO is a high-cost method of facilitating mature-age workforce participation. The government will be investing in better-targeted workforce participation programs.’ We believe that encouraging mature-age workers to participate in the workforce can be done more effectively through direct payments or incentives.

The government claims to have replaced the MAWTO with the Restart program, which provides a payment of up to $10,000, which will be available to employers who hire a mature-age job seeker aged 50 years or over who has been receiving income support for at least six months. Labor will continue to fight for older Australians—for their rights to work and participate in society, for their pensions and for appropriate aged-care services.

Labor will oppose schedule 2. This is the government’s proposed abolition of the seafarer tax offset. The seafarer tax offset commenced from 1 July 2012. This measure was part of the then Labor government’s shipping policy reform Stronger Shipping for a Stronger Economy, announced in the 2010 election, and was designed to stimulate employment opportunities for Australian seafarers to gain maritime skills. The offset provides a refundable tax offset for qualifying companies employing eligible seafarers. Currently, companies are eligible to claim the seafarer tax offset—a refundable tax offset linked to the concept of withholding payments paid to Australian seafarers for overseas voyages—in certain circumstances. The overseas voyage must be made by a certified vessel and the seafarer must be employed by the company claiming the offset for at least 91 days in the income year.

It is possible the government does not understand the impact of its policy here or, alternatively, perhaps it has thought it through and it does understand the negative impact of its policy. Either way it has got it wrong. The shipping trade is important for Australia. One-tenth of the world’s sea trade goes to or from Australia, and Australia has the fourth-largest shipping task in the world. It stands to reason as we are a maritime trading nation. It is in our national and security interests to revitalise Australian shipping.

As I indicated, the previous Labor government did considerable work in this regard. The former Deputy Prime Minister and Minister for Infrastructure and Transport, Mr Albanese, has very passionate views about this and was the leader of reform when Labor was in government. One of the reforms introduced by Labor was this tax offset back in 2012, following lengthy industry consultation. The object of the offset is to stimulate opportunities for Australian seafarers to be employed or engaged on overseas voyages and to acquire maritime skills.

There is a straightforward principle here. Under our tax system, if you are an Australian citizen and you are working elsewhere in the world, you are covered by the tax system of that country. We are not like America, under whose system an American working anywhere in the world is regarded as being subject to the revenue task of the United States government. In Australia there is a different approach. But we say that, if you are working on a ship which is not in Australian waters, that should apply as well. This was an offset introduced by the previous government, designed by the Treasury—not by others—to achieve that policy aim. The policy is supported by the Australian Shipowners Association. They said:

The Seafarers Tax Offset was a key element of the 2012 reforms which helped to reduce the operating costs of Australian vessels, increased the competitiveness of Australian shipping and provided significant opportunity for employment of Australians in international trades … the impact—
of the abolition—
is severe with regard to future opportunity.
I will be interested to hear if those opposite acknowledge this point. The Australian Shipowners Association have called them out. Labor will defend the seafarer tax offset and we have circulated an amendment to be debated in the committee stage that will remove schedule 2 from this bill because we do not agree with the government's position on this matter. This is not for a large saving; we are not talking about billions of dollars. It is a quite modest measure but it is an important one. I ask the government to reflect on this measure, maybe to consider the views of the Australian Shipowners Association, and to acknowledge that it has got it wrong. If it acknowledges it has got it wrong, then it will have our bipartisan support on its back-down.

Labor will also not be supporting the schedule which goes to the changes to research and development. In relation to research and development, we have seen a disappointing pattern from the government. It is a government which is prejudiced against science, research and development, and important measures to encourage innovation in the Australian economy. Almost everybody knows that innovation, science and technology are important key drivers for future economic growth. I say 'almost everybody' because it seems that everybody except the government knows that. Remember, this was a government that belatedly added a minister for science to its line-up in December last year. Seriously! Tony Abbott, science, December last year—15 months after they took office. It is a tribute to the pressure that many organisations and, might I say, the Australian Labor Party, principally through my colleague Senator Carr, that they finally acknowledged science was important enough for it to be included as a ministerial title. I know Senator Carr is looking forward to making a contribution in the debate on this bill a little later on. This could be one of your finer moments, Senator Carr—through you, Mr Acting Deputy President Whish Wilson. I am sure the whole chamber will be looking forward to hearing from Senator Carr on this—and do not think we do not know who wrote the speech!

But, of course, real support for science and innovation goes beyond having a title on a letterhead. Unfortunately, the government has been severely lacking in this area. It is a government which cut research and development spending and cut science research spending quite considerably in its heroic 2014 budget. We have seen the CSIRO cut by $115 million. We have seen the Defence Science and Technology Organisation cut. We have seen the Australian Nuclear Science and Technology Organisation, the Australian Institute of Marine Science, and Geoscience Australia suffering cuts of $51.4 million. One that I had some association with previously, NeCTAR, has been gutted. We have seen co-operative research centres, which have been so important over many years for the Australian innovation task, have their funding slashed. We have seen important government programs when it comes to commercialisation and innovation abolished and replaced by a new program, which has roughly half the amount of funding that was previously in place and has a vague and ill-defined mandate. In many ways, the government has just been playing catch-up and trying to cover the fact that it is making cuts in this important area.

Why does Labor say this is so important? It is because these are the drivers of future economic growth. We have condemned the government for its budget because it is unfair. We have condemned the government for its budget because it represents prejudice against
working Australians. We have condemned the government for its budget because it represents fundamental breaches of promise and a web of deceit that the Liberal and National parties engaged in at the last federal election. We also condemn this budget because it represents an attack on future sources of economic growth.

This is in great contrast with Labor. Time and again Labor has demonstrated that it is the party that looks to the future, with a vision for tomorrow's Australia. By contrast, the current government looks only in the rear-view mirror—not in an Australian-built car of course—because it has only a backward-looking policy. It represents an approach to policy which does not recognise the importance of innovation in Australia.

The fact is that high-growth technology companies currently generate less than 0.2 per cent of our GDP. PricewaterhouseCoopers have estimated that, with the right policy environment, this sector could contribute four per cent of our GDP, generating more than half a million jobs by as early as 2033. In order to achieve this Australia needs a government which embraces innovation, commercialisation, research and development, start-ups and the spirit of entrepreneurialism. The government are happy to talk about these things, but their policies, as in so many areas, go in exactly the opposite direction. We have a Prime Minister and a Treasurer who think that if they say something it makes it so. But it is actually their policies that make it so—and their policies do not reflect the rhetoric.

A measure before us here is a $620 million cut to the research and development tax concession. I will say a number of things about this. First, the support given to research and development through the incentive in the tax system has been very important in Australia's research and development efforts. What the government is doing here is relinking the concession to the corporate tax rate. The previous Labor government explicitly delinked the corporate tax rate and the research and development incentive. We did that to provide certainty so that Australian companies investing in risky research and development ventures knew the sort of support they would receive from the government when they were undertaking the difficult decision about how much to invest. Some of these ventures will not pay off for the company but, if they do pay off for the company, most of them will have spillover effects for the entire economy. That was the approach taken by the previous government.

This government has taken the approach of relinking the corporate tax rate with research and development incentives. I accept that there is a legitimate debate to be had about that and that there could be good arguments put on both sides, but the approach taken by the Labor Party in office that we continue to defend, protect and promote is that it is important that firms have certainty when it comes to investing in research and development.

The government is so incompetent that, even if you accept its arguments, it has actually been quite tricky with the Australian business community. Firstly, this bill seeks to reduce the research and development tax incentive because the government wants to relink it with the corporate tax. The government is proposing to cut the corporate tax rate to 28.5 per cent from 1 July next year, but this change applies not from July next year but from before then. If there is to be any justification for the government to implement this measure, it should apply from the same date as the corporate tax rate which the government intends to introduce comes into effect. I urge the Senate to support Labor's amendment to remove schedule 3 from this bill.
We will support schedule 4, which relates to the introduction of new deductible gift recipients. In the tradition of both Labor and Liberal governments, this is the normal process. As the bill explains, a deductible gift recipient is an entity to which gifts may be claimed as tax deductions by taxpayers. Subdivision 30-B of the Income Tax Assessment Act 1997 sets out general categories of purposes or activities within which funds, authorities or entities are able to receive tax deductible gifts. Such entities are known as 'deductible gift recipients' or DGRs. Whether or not an entity falls within one of the general categories is determined upon application by the Commissioner of Taxation. The deductibility of any gift is subject to any conditions or limitations set out in subsection 30-15(1) of subdivision 30-A of the Income Tax Assessment Act 1997.

Where a certain fund, authority or entity is not eligible to receive deductible gifts because its purposes or activities do not fall into one on the general categories of deductible gift recipients, it has been the practice of governments to propose to the parliament that a certain fund, authority or entity be listed by name in the tax laws. There are no coherent guidelines, criteria or principles guiding when the government will propose to the parliament that an entity should be specifically listed. Once listed, entities are known as 'specifically listed deductible gift recipients'. Subdivision 30-G gives an index to all the specially listed deductible gift recipients in subdivision 30-B.

There are three organisations that schedule 4 will insert into the Income Tax Assessment Act 1997 to enable them to receive gifts that are tax deductible for the donor. These are: Australian Schools Plus, an organisation which supports the education of students by collecting donations from the public and distributing these funds among disadvantaged schools; the East African Fund, which promotes the education of children in rural communities in East Africa and runs the School of St Jude located in the Arusha region of Tanzania; and the Minderoo Foundation Trust, which was founded by Andrew and Nicola Forrest and supports programs to combat Indigenous disadvantage, both within Australia and across the world. These are worthy organisations and, accordingly, schedule 4 will attract our support. Labor look forward to the support of the chamber for our amendments and, if schedules 2 and 3 are removed, we look forward to supporting the bill.

Senator KIM CARR (Victoria) (20:05): The Tax and Superannuation Laws Amendment (2014 Measures No. 5) Bill 2014, as Senator Conroy has so eloquently pointed out, has some measures in it that Labor are able to support but we oppose two schedules and seek their deletion. I would like to concentrate on the first of these matters.

The passage of this bill in its current form would further degrade the R&D tax incentive, which is one of the most important mechanisms available in the taxation system to foster innovation. The incentive has already been undermined by the passage of the Tax Laws Amendment (Research and Development) Bill 2013, which restricts its operations to outlays of up to $100 million. The current bill seeks to reduce incentives by 1.5 percentage points, supposedly to preserve its value relationship to the company tax rate. I understand there has been some speculation as to whether the government is intending to reduce the company tax rate, but that is an aside.

The government has reneged on its promise to cut the corporate tax rate. If that is in fact the case—and I am waiting for an announcement on that, but I understand that is the government's position—it will demolish the justification for this bill. Anyone wondering just
how this bill and its predecessors can be rational, in terms of innovation policy, need not
bother.

The reality here is straightforward. This bill is a farrago of bills and has nothing to do with
innovation policy. The government is using these changes to the R&D tax incentive to gather
savings, not to make the R&D tax incentive more effective. This is typical of the way in
which this government has failed to understand the crucial role of innovation in an advanced
industrial economy. This is an economically myopic government. It is intent on a short-term
cash grab, even at the expense of longer-term growth. The government likes to talk a great
deal about its need to reduce the deficit, but it has embarked upon a course of action that will
slow growth down and, along with it, the revenue streams that the government requires.

In advanced industrial economies—I think the argument is well worked—innovation is the
chief driver of increases in productivity. Without a strong innovation system, Australia cannot
build a more diverse economy, and if we do not build a more diverse economy we cannot
protect living standards and we cannot ensure that prosperity is spread throughout our
population. Without a more diverse base, future growth will be unreliable, fluctuating with
booms and declines in commodity exports. This is understood by industry stakeholders and
their representatives. The government should heed the advice of the Australian Industry
Group in its 2015-16 budget submission, which calls for a reconsideration of further
restrictions on the R&D tax incentive. Ai Group argues in its submission:

… the budget will only see a sustainable improvement when revenues improve, and for this to occur
we must see strengthening in industries across the economy from the anaemic pace of growth in recent
years. Only when businesses lift their sales and profits and grow their workforces will there be a
sustained pickup in revenues.

Consequently, Ai Group believes the Federal Government should continue with sensible programs of
investment in infrastructure and skills and training—

And I emphasise here—
as well as targeted programs to lift the rate of innovation among Australian businesses and encourage
businesses to develop export opportunities.

The government, of course, is doing precisely the opposite, even though there is hard
evidence for the case that Ai Group has made.

According to the Australian innovation system report, innovation 'almost doubles the
likelihood of productivity growth in Australian businesses'. Firms that innovate are '78 per
cent more likely to report increases in productivity' from their previous year's output. And
firms that collaborate with research organisations and universities are almost two-and-a-half
times more likely to report increases in productivity.

In the 1980s, Labor introduced the R&D tax concession, making Australia one of the first
countries in the world to foster innovation through the use of taxation measures such as this.
In 2011, another progressive Labor government updated the measures of the R&D tax
incentive and converted the concession to a credit, doubling the benefit for smaller firms and
raising it by a third for larger firms. This was a landmark reform, and the effect was
immediate. The amount invested by business grew by 20 per cent, and registrations have
continued to increase. As of 30 September last year, more than 12,000 companies had
registered $20.53 billion of R&D spending for the 2012-13 income period. This was an
increase of more than 1,600 firms engaged in R&D over the previous year. More than 3,000
companies are new to the program—growth in the innovation system that the government is apparently willing to put at risk.

When Labor was in government, the national innovation agenda—set out in the document *Powering ideas*, which was a 10-year comprehensive innovation strategy—explained the relationship of the R&D tax incentive to the wider tax system. *Powering ideas* stated that the aim of the change from the former concession to the incentive was 'to increase certainty by uncoupling the level of R&D support from the corporate tax rate'.

The change proposed in this bill undermines that uncoupling, even though the expected cut in the corporate tax rate is no longer guaranteed. It creates an expectation that when there is a change in the corporate tax rate the incentive will be adjusted accordingly. But multinational companies, in particular, often need to make large, periodic investments in R&D capability if they are to undertake their R&D in Australia. I know in some quarters there is a view that you should not support large companies investing in R&D in this country. They are the major drivers of R&D investment in this country and the major drivers of capability extensions in this country, and moving against them in terms of their R&D investments is an incredibly short-sighted attitude.

To attract those investment decisions, Australia must provide an investment environment that offers certainty, transparency and international comparability. The measures proposed in this bill, however, will only erode certainty and transparency. The effect of the bill will be to discourage R&D investment in Australia. In particular, the bill punishes small- and medium-sized enterprises. I know there is this fantasy around that if we only attack the big ones then somehow or other there will be a trickle-down effect to the small ones. On the contrary, what this bill does is undermine the small- and medium-sized enterprises as well, not to mention the universities and all the other supply-chain enterprises that are affected by these proposals. It is the small and medium sized enterprises which rely on the existence of a permanent and stable tax incentive in order to invest in R&D. This is critical to their business case as much as it is to the larger firms.

Senators will be familiar with the name of Cochlear, an Australian company which has been at the forefront of manufacturing innovative advanced medical technology. More than 250,000 people around the world have become the recipients of Cochlear's implantable hearing devices. The vast majority of Cochlear's R&D activities are conducted in Australia, where more than 300 scientists and engineers are engaged in this work. But in a letter to the Senate standing committee on economics, Cochlear's Chief Financial Officer, Mr Neville Mitchell, has explained how this bill and its predecessor are severely hampering the company's global competitiveness. Cochlear typically spends more than $100 million annually on R&D. In order to drive innovation, Mr Mitchell writes, the company would normally seek to increase its R&D investment in Australia, but that decision is now being reviewed because the incentive has been capped at $100 million. So this is one of the early consequences of that fateful decision that the government has made in recent times.

This reduction is counter to the international trend. As Mr Mitchell points out, the United Kingdom, Hong Kong, Singapore, Italy and France have all increased their R&D incentives in recent years. But Australia, under this government, is going backwards. Under the R&D tax regime that the Abbott government is intent on introducing, companies like Cochlear will be
actively discouraged from conducting their R&D in this country. The consequences of that perverse stance are clear to everyone except the government. As Mr Mitchell writes:

Ultimately a reduction in the level of R&D undertaken in Australia will result in reduced employment and reduced corporate and individual income taxes.

Cochlear’s concerns about this bill are shared by smaller and medium sized companies, which, as I have said, will be particularly affected by the reduction in the value of the incentive should this schedule be accepted by this chamber. The founder and technical director of a small engineering company in South Australia has written to me, stating that the bill will have 'a direct and adverse impact' on his company and on industry in Australia generally. The company is an engineering design consultancy, which for the past 20 years has developed new technologies and products in many industry sectors, including mining, medical, automotive, clean technologies and consumer goods. Its clients range from small firms of fewer than five employees up to multinational corporations. At both ends of this spectrum, the technical director writes, the R&D tax incentive is in many cases crucial to successful conclusion of their projects.

That plight is not unique to the company of which I am speaking. Smaller companies are frequently starved of development funds. Many survive on seed funding, which all too often is difficult to obtain in Australia. For companies in this position, the R&D tax incentive is commonly the difference between whether a project goes ahead or not. Because of the incentive, many of these projects have gone on to achieve commercial success. They have generated jobs, profits and export income. This government is evidently intent to see such projects fail, and the jobs and future economic growth that comes with them.

The technical director of the engineering consultancy notes that larger firms and multinationals often have the choice of developing new products in Australia or offshore. The capping of the incentive at outlays of $100 million, he says, has already made that decision more difficult for them. The cut in the value of the incentive will have the same effect for many more.

This bill also abolishes two tax offsets: the mature age worker tax offset and the seafarer tax offset. Labor supports the first of these measures. We had begun to phase out that offset when we were in office. In the 2012-13 budget the then Labor government limited the offset to taxpayers born before 1 July 1957, with an estimated $255 million gain over the forward estimates. At the time, the government stated that the offset was a high-cost method of encouraging mature-age participation in the workforce. That aim can be achieved more effectively through direct payments or incentives, so we accordingly have no objections to that measure.

We cannot, however, offer our support for abolition of the seafarer offset. This offset began in July 2012, as part of the Labor government’s maritime reform agenda, Stronger Shipping for a Stronger Economy, which we had announced in the 2010 election campaign. The offset provides a refundable tax offset for qualifying companies employing eligible seafarers, to enable them to gain skills. This is a very useful measure, and its worth continues to outweigh any financial gain from removing it.

Finally, the bill updates the list of deductible gift recipients, a necessary item of housekeeping that we support.
The merit of the lesser measures in this bill, such as the abolition of the mature age worker tax offset does not compensate for the continued damage the Abbott government is intent on doing to Australia's innovation system. The government likes to boast about its credentials as a great economic manager, but its degrading of the R&D tax incentive and its trashing of the innovation system generally reveal those credentials to be worthless. What the Abbott government is doing in this bill is an act of economic vandalism which will leave all Australians worse off.

Senator RICE (Victoria) (20:21): In rising to speak on the Tax and Superannuation Laws Amendment (2014 Measures No. 5) Bill 2014, I am reflecting that it is sad that the pattern of this legislation is so familiar. It is a pattern we have got used to. It is a pattern of a government that is focusing its attacks on the people that can least afford to be attacked—the poorest in our society, the people that need support—and ignoring the potential ways of balancing our budget by looking at the big end of town. In this legislation, there are attacks on workers, on older people and on science and development.

The measures that are laid out in this legislation are going to save a relatively measly amount of money. In comparison, if we had a government that was serious about really looking at where the money could be coming from and how it could be balancing the budget, it would be looking at things like making our superannuation system fairer and saving billions of dollars by doing that; removing fossil fuel subsidies and saving billions of dollars by doing that; and increasing the tax on the big profits of the big four banks. These sorts of measures, revenue-raising measures, are the sorts of things that would be really making a difference in balancing our budget, but instead we have an ideological attack on the people that can least afford to pay. The Greens are committed to maintaining strong protections for Australian workers and the industries that support them. So we are seeking to amend this bill, and we will be opposing the changes to the seafarers tax offset, to the research and development tax offset and to the mature age worker tax offset.

I want to start with the seafarers tax offset. Schedule 2 of this bill proposes to abolish this. In its current form, the seafarers tax offset applies to seafarers in a ship for which a company has the appropriate certificate and where the company employs the crew member for at least 91 days a year for these journeys. This tax incentive goes a long way to ensuring workers on overseas journeys can get a decent pay and it keeps their jobs viable, and it costs us the measly sum of $2 million a year. For the sake of $2 million a year, the government is continuing to apply measures that are going to be making it more and more difficult to employ Australian workers on our seas and to have Australian-flagged ships plying our coast.

You can see that there are all sorts of measures that are all coming together to completely decimate the Australian shipping industry, and that will be a disaster. It will be a disaster for the Australian workforce but also a disaster for us having good work conditions and safe environmental conditions for the ships that are in our waters. It is a tiny saving that the government is trying to achieve, and for that it is going to ditch security for workers and our shipping industry at the very time that they need our support. We must not let it happen. Right now, what the Australian shipping industry needs is certainty. The industry is awaiting the results of the minister's options paper. The last thing it needs is to be forced to negotiate the storm that abolishing this tax incentive would create.
The policy as it stands at the moment, which is going to be abolished, also promotes professional development and training of workers by including this in the period deemed to be on a voyage. This is an essential measure to train up Australian shipping workers and give them the know-how to maintain our status as a major shipping nation. It is a status that we do not need to let go. We have options. There are constructive ways forward for us to maintain a strong, healthy, viable Australian shipping industry with good working conditions for the seafarers and with good environmental protections.

Perhaps most importantly, the Australian shipping industry can be a shipping industry that is competitive with the rest of the world, because it needs to be that. It truly is an international business. The industry operates in a market that is largely tax free in international terms and in which other players—seafarers on other countries’ ships—are given similar tax incentives. So to take away this benefit from our workers will be putting them at a disadvantage to the rest of the world just when we need to be doing everything we can in order to maintain their jobs.

The government argues that the seafarers tax offset has had a low uptake. But, while uptake numbers might appear low at first glance, the reality is that it reflects the small number of Australian ships operating internationally. We need to be maintaining those ships and increasing the number of Australian ships operating. At the moment we have a small number of ships, but it is a vital industry and a tax measure that we must keep.

Schedule 1 of this bill abolishes the mature age tax offset and removes access to this incentive for older workers to remain in the workforce. Up to a million Australians are receiving this at the moment. We all know the challenges that Australia is facing from our ageing population, and we need to be doing whatever we can to support older Australians continuing to participate in the workforce. We know that the government knows that that is what they are trying to do. We have seen in the media this week measures to try to maintain and encourage older Australians to stay in the workforce. The mature age tax offset puts $500 in the pockets of mature age workers as an extra incentive to get them to stay in the workforce, and we do not accept that ripping $760 million from older Australian workers is a fair thing to do. It is part of the Abbott government's unfair budget cuts. The Greens are committed to improving older Australians' access to and participation in work and believe that the government needs to be doing more, not less, including supporting employers where it is appropriate. Because of this, the Greens are going to be moving to amend this bill and remove this schedule from the bill.

Schedule 3 of the bill, of course, continues the Abbott government's attacks on science and research and development. The bill cuts 1½ per cent from the research and development offsets available to businesses and rips $620 million out of research and development spending over the forward estimates. This, again, is just what we do not need to be doing to have a prosperous Australia. We know that increasing investment in science and research is the way forward. We know that our wellbeing, our security and our economic viability as a nation depend on this research and on our having an innovative economy that is using our brains. That is where we are going to be able to continue to compete on the world stage. The government tries to justify this cut by saying it brings it into line with business tax cuts also outlined in the budget, but this cut will occur a year before those possible tax cuts, and the passage of those tax cuts through the Senate is, of course, by no means certain.
Of course, these cuts to research and development also come on top of the cuts to the R&D tax offset that targeted large company investment that recently passed the Senate. This is insanity—it is totally the direction that we should not be going. The insanity of these cuts is reinforced and underlined by the government's own figures on science expenditure. Just as we know that science increasingly needs to underpin our future as a nation, we are set to spend less on science and research this year than we did in 1979. We know that, over the past few decades, science and research has become increasingly important to our society and economy. The rot began under Labor in 2012, but Tony Abbott is taking spending on science and research to the equal lowest level since records began. We have had cuts to CSIRO. CSIRO scientists have been taking voluntary redundancy packages across the country. CSIRO scientists who have been working for decades are no longer going to have their contribution to our country used and valued. We have seen cuts to clean energy programs, and the cuts to tax concessions for R&D such as the cuts in this bill have contributed to this woeful result of spending on science and research being at its equal lowest level since records began.

We will never be able to compete with China or India on wages, but we have the potential to be stronger on research and innovation. That needs secure and significant public investment, something that other countries have certainly twigged to. We are trailing way behind countries that are our competitors in the world—countries like Germany, the UK and US—and we are outspent by key trading partners like Korea and Japan.

A few weeks ago, I visited a car component manufacturer in Adelaide, Precision Components, who are trying to work out how they can survive with the car industry disappearing from Australia. They are desperate to maintain their business. They are desperately trying to be innovators and doing a lot of research and development to discover new markets for themselves. They told me that some 50 per cent of their workforce are now employed in engineering as opposed to being workers on the factory floor manufacturing the products. Fifty per cent of them are in the engineering part of the business. This is the sort of business that needs to be supported by research and develop grants that enable us to have the innovation that would allow Australia to continue to compete on the world stage and to continue to provide jobs for Australians.

We keep cutting spending on science, research and innovation—and these spending cuts are happening because they are seen as being something that no-one will notice. It is just a small amount; the scientists are not going to complain very much; no-one will think about it. If we keep doing this, the country's brain drain will continue and we will wake up after the mining boom to find we are a hollowed-out, uneducated quarry with nothing left to sell to the rest of the world.

The Greens will always be committed to Australian workers and to maintaining innovation in our key industries. That is why we will seek to amend this bill, to remove these idealistic attacks on our workers.

**Senator SCULLION** (Northern Territory—Minister for Indigenous Affairs and Leader of The Nationals in the Senate) (20:34): First, I would like to thank those senators who have contributed to this debate. The Tax and Superannuation Laws Amendment (2014 Measures No. 5) Bill 2014 represents another chapter in the government's commitment to implement our Economic Action Strategy and to repair the budget. Our Economic Action Strategy is about setting Australia up for the future. It is about making some tough decisions now so we
can build long-term prosperity, so we can make sure Australia has a social safety net which is strong and sustainable, and so future governments have the resources available to allow them to make decisions that are fair yet compassionate for the Australia people.

We have outlined a way forward to achieve this goal. This includes reprioritising government spending to spend less on consumption now and more on investing in our future. It includes ensuring that taxpayers' funds are spent wisely; taxpayers deserve value for money from their government. It also includes an expectation that everyone will contribute to budget repair. Each measure contained in this bill takes us a step further on our path to achieving this goal.

Collectively, the measures in this bill will return around $1.4 billion to the budget. Separately, each measure in this bill tells its own story about different groups of people. Schedule 1 abolishes the mature age worker tax offset. We understand that older Australians face challenges when re-entering the workforce, and data shows that older Australians face high rates of labour market disadvantage. We would like to change this. Older Australians want to work and we need them to work. The intergenerational report that the Treasurer will release later this week will demonstrate the importance of workplace participation, whether by older Australians or by women returning to work after having children, to future policy. A prosperous Australia depends on everyone contributing to a strong, sustainable economy, and older Australians just need to be given this opportunity to contribute.

But the mature age worker tax offset does not help older workers in getting a job; it merely reduces the tax that might be payable for those who are already working. Abolishing it will save the Australian taxpayer around $760 million over the forward estimates period. Our aim is to assist older workers to transition back into work. Once a person gets into the workforce, they are likely to stay there. This is why, from 1 July 2015, we will provide an incentive of up to $10,000 to employers who hire an older job seeker. This will be delivered through the Restart program. This payment will help older job seekers to get a job and keep the job. This is just one of the ways the government is working to assist older Australians.

Schedule 2 abolishes the seafarer tax offset. This is, sadly, another failed Labor policy. It provides a refundable tax offset to eligible shipping companies for 30 per cent of the salary, wages and allowances paid to Australian resident seafarers who are employed to undertake overseas voyages on qualifying vessels. Companies are eligible to claim the seafarer tax offset if the company employs the seafarers on such voyages for at least 91 days in the income year. The rationale for the introduction of the seafarer tax offset was to stimulate opportunities for Australian seafarers to be employed on overseas voyages and to gain maritime skills. The government is abolishing the seafarer tax offset because it is not achieving its policy intent.

There are significant differences between Australian wages and conditions and those of some other countries. For example, under the Seagoing Industry Award 2010, the minimum basic wage for an able seaman is $96,500, whereas under the International Transport Workers' Federation Uniform Total Crew Cost Collective Agreement the comparable wage is $23,303. The seafarer tax offset is unlikely to be sufficient to redress these differences.

The companies that employ Australian seafarers for overseas voyages typically have other reasons for doing so, such as English language skills and, particularly, the knowledge of Australian ports and coastline. Being a refundable tax offset of 30 per cent of the gross payments the company makes to the seafarer, the benefit may be small relative to the scale of
shipping companies. The seafarer tax offset has not resulted in any appreciable increase in the employment of Australian seafarers. Its repeal will return $12 million to the budget over the forward estimates.

Schedule 3 reduces the tax offset available under the Research and development tax incentive by 1.5 percentage points for income years commencing on or after 1 July 2014. This was a difficult decision. However, repairing the budget must be done as fairly and as equitably as possible. It is only fair that everyone makes a contribution. The changes to the R&D tax incentive are simple and straightforward. The changes will not affect the eligibility of companies for the incentive, the way that companies claim the incentive or the administration of the incentive more generally. The R&D tax incentive will continue to provide generous, easy-to-access support for thousands of eligible companies in all sectors of the Australian economy. This measure will provide savings of around $620 million over the forward estimates period.

The government remains committed to each measure contained in the bill. However, we understand from the debate that opposition senators have foreshadowed amendments to the bill. The government will agree to opposition amendments to excise schedules 2 and 3 from the bill. These schedules remain crucial to the government's economic action strategy and our commitment to budget repair, and we will seek to reintroduce these schedules at a later date. The government will remove these schedules in order to assist the prompt passage of schedules 1 and 4 of this bill.

This brings me to the final measure of the bill. Schedule 4 adds three new deductible gift recipients. This will allow Australian Schools Plus; the East Africa Fund, which operates the School of St Jude; and the Minderoo Foundation Trust to receive tax-deductible donations. Australian Schools Plus is a vehicle for donations to be collected from the public for disadvantaged schools. This policy seeks to address the perception that these schools find it relatively difficult to attract donations. The School of St Jude provides free, high-quality education to children in Tanzania who would otherwise be unlikely to complete their schooling. Over 2,000 students from various regions and 35 different tribal backgrounds attend the school of St Jude, and over 1,400 of these students are boarders. Students receive meals from the school as well as annual health check-ups. The school monitors the general welfare of the students and can help students with issues they may be experiencing at home.

The Minderoo Foundation Trust operates three programs: the Walk Free Foundation, GenerationOne and Hope for Children Australia. The Walk Free Foundation seeks to eliminate modern-day slavery by supporting the highest quality research, enlisting business and raising funds to drive change in those countries and industries where slavery is most prevalent. Generation One is a national movement bringing together all Australians with the goal to end the disparity between Indigenous and non-Indigenous Australians through employment and to break the cycle of disadvantage. Hope for Children Australia supports orphans, vulnerable children and families affected by HIV AIDS and poverty in Ethiopia. The project aims to help orphaned and vulnerable children reach their full potential. Hope for Children initiatives include helping children gain an education, providing family health support and assisting families to pursue micro-enterprise initiatives.

The measures contained in the bill present a careful and reasonable approach to reprioritising government revenue. They bring us a step closer to reducing our debt and a step
closer to a stronger, better and more compassionate Australia. I commend this bill to the Senate.

Question agreed to.

Bill read a second time.

In Committee

Bill—by leave—taken as a whole.

Senator RICE (Victoria) (20:43): I move the Australian Greens amendment (3) on sheet 7665:

That schedule 1, page 3 (lines 1 to 20), be opposed.

We are moving this amendment in order to oppose the removal of the mature age worker tax offset—so, removing this schedule to maintain the mature age worker tax offset—because we feel the provisions that are currently available to mature age workers to stay in the workforce are very much provisions that are worth maintaining. We understand there are other incentives that are possible and which we support to keep mature age workers in the workforce, but we feel that this tax offset in itself is a very important provision that will help mature age workers to stay in the workforce.

Senator SINGH (Tasmania) (20:44): Labor will not be supporting this Greens amendment. Labor has a strong record of increasing workforce participation for older Australians. When we were in government Labor introduced measures including the productivity ageing package, which provided additional training and financial incentives for employers hiring older Australians. The previous Labor government also commenced the phase-out of the mature age worker tax offset—MAWTO—in the 2012-13 budget, limiting it to taxpayers born before 1 July 1957. That measure had an estimated $255 million gain to revenue over the then forward estimates period.

This reform implemented a recommendation from the Henry review, Australia's Future Tax System, and built on Labor's growing record of tax reform. At the time, the then Labor government stated:

The MAWTO is a high cost method of facilitating mature age workforce participation. The Government will be investing in better targeted workforce participation programs.

The mature age worker tax offset is regressive and is not an effective way of encouraging older people into the workforce. Encouraging mature age workers to participate in the workforce can be done more effectively through direct payments or incentives. The Labor government planned these savings in order to be able to redirect support to better targeted mature age employment initiatives in order to give mature aged workers the greatest opportunity possible to secure and retain work if they wish.

In keeping with those plans, the government claims to have replaced the mature age worker tax offset with the restart program. This program will make a payment of up to $10,000 available to employers who hire a mature age job seeker 50 or over who has been receiving income support for at least six months. When initiated by Labor, some of the measures the savings were linked to included the National Workforce Development Fund to provide additional support to mature age workers and mature age participation through job seeker assistance and the Economic Potential of Senior Australians package of measures.
So it is for those reasons that Labor will not be supporting this amendment.

The TEMPORARY CHAIRMAN (Senator O'Neill): The question is that schedule 1 stand as printed.

Question agreed to.

Senator SINGH (Tasmania) (20:47): I now move Labor amendment (3) on sheet 7647:

(3) Schedule 2, page 4 (lines 1 to 16), to be opposed.

Labor's amendment ensures that the seafarer tax offset is not abolished. Abolition of the seafarer tax offset is the start of the coalition's attempt to remove the supports that Labor put in place to revitalise Australia's shipping.

The object of this offset is to stimulate opportunities for Australian seafarers to be employed or engaged on overseas voyages and to acquire maritime skills. It provides a benefit to employers of Australian seafarers. The offset also is only two years old, yet the government wants to abolish it already. It should be given an opportunity to work, because Australia needs to maintain and expand its maritime skill base. The Australian Shipowners Association, in fact, strongly opposes the abolition of the offset, and so do Shipping Australia, the MUA and the department of infrastructure. No submissions to the legislation inquiry on this bill, in fact, backed the abolition. In fact, apart from the coalition all on its ownsome, I cannot find anyone at all who supports the abolition of the seafarer tax offset. This tax initiative was one of several that arose from the lengthy industry consultations that led to Labor's shipping package. This package commenced in July 2012 and has been operational for just two years, and already this coalition government wants to abolish it.

Australia, as we know, is an island nation. One-tenth of the world's trade goes to and from Australia. Australia has the fourth largest shipping task in the world. It is in Australia's national and security interests to revitalise Australian shipping, not to provide this backward step through the abolition of the offset. Australian shipping is an industry in its own right. It is not simply a cost to other industries. The coalition should stand up for Australian shipping rather than do what it has done continually over the past year and a half, which is walk away from taking practical action to save jobs and defend Australian skills.

We know that the coalition will soon try to walk away from supporting Australian coastal shipping. Opening the coast to an increased number of foreign vessels on Third World wages is bad for safety, is bad for our sensitive maritime environment and deprives us of skills needed to maintain security at our ports and harbours. It makes related activities like shipbuilding and ship maintenance less viable and weakens our long-term naval capacity.

That is why the opposition moves this amendment on sheet 7647.

Senator RICE (Victoria) (20:51): The Greens will be supporting this amendment. It is the equivalent of our amendment (4) on sheet 7665.

This amendment really puts the priorities of this government in stark relief. We are going to be saving a measly $2 million by abolishing the seafarer tax offset. In doing that we are going to be adding to the risk of completely destroying the Australian shipping industry—shifting support away from the Australian shipping industry so that we will end up having virtually no Australian flagged ships or Australian workers, and far fewer Australian seafarers, in our waters.
It is a tiny saving that this measure would make. It is a measure which makes savings that, if it were being supported in the interest of balancing the budget, could easily be made in other areas. In fact, many times this amount of money could be made in revenue from the big end of town.

The shipping industry needs certainty at the moment. We have the minister's options paper, so we really do not need to be adding this as an extra impact on the shipping industry—an extra impact that is going to be reducing the viability of the Australian shipping industry. Shipping is an international industry and it means that we have to be competitive internationally. Other countries have similar tax offsets. Removing this tax offset will put the Australian shipping industry at a disadvantage. As Senator Singh has already said, the seafarer tax offset has the support of players right across the field in the shipping industry. It is a measure that, for a relatively small cost, helps to support and enable our shipping industry to continue to flourish and thrive.

**The TEMPORARY CHAIRMAN** (20:54): The question is that schedule 2 stand as printed.

Question negatived.

**Senator SINGH** (Tasmania) (20:54): I move opposition amendment (4) on sheet 7647:

(4) Schedule 3, page 5 (lines 1 to 17), **to be opposed**.

I do so as it relates specifically to a research and development tax incentive which will be reduced by 1.5 per cent, as it was from July last year. This will reduce the offset from 45 per cent to 43.5 per cent for companies with an annual turnover of less than $20 million, and from 40 per cent to 38.5 per cent for all other companies. As that is, it will preserve the relative value of the R&D tax incentive to the company tax rate, which will be cut by 1.5 per cent in July 2015—that is, July this year.

The level of R&D tax incentive is determined by the R&D rate and the company tax rate. As company tax is being reduced by 28.5 per cent, maintaining the current R&D rate would effectively increase the subsidy. Companies will already receive a benefit from the reduction in company tax and so this reduction should not reduce overall R&D expenditure, as the size of the subsidy is maintained. There is a potential timing issue, as well, with the R&D tax incentive reduction occurring one year earlier than the cut in company tax. This means that the difference between the company tax rate appears to be lower in the 2014-15 year than in previous and future years.

This potentially undermines the ostensible policy rationale for the save, which is to maintain a stable R&D reduction rate. However, companies are able to carry the R&D tax incentive forward into future tax years, which may reduce the impact of this timing effect. This may explain why the first year of this measure has a smaller impact on the budget bottom line compared to the outer years.

More fundamentally, though, when the Labor government changed the R&D tax incentive arrangement from a tax credit to a tax offset, one of the reasons it did so was to increase certainty by uncoupling the level of R&D support from the corporate tax rate. The proposed change undermines that uncoupling and raises an expectation that every time there is a change in the corporate tax rate we could see the incentive adjusted accordingly. Given that multinational companies, in particular, often need to make those periodic large investments in
R&D capability to undertake ongoing R&D in Australia, certainty, transparency and international comparability of the investment environment are critical for Australia to attract such investments. It is with that in mind that Labor moves this amendment, item (4) on sheet 7647.

Senator RICE (Victoria) (20:58): The Greens will be supporting this amendment, it being the same amendment as our amendment (5) on sheet 7665. The reduction in R&D funding that would occur through this schedule, cutting 1.5 per cent from research and development, is entirely the wrong direction than we need to be taking as a country. We are already trailing far behind our trading partners and other countries like Germany, the UK and the US, and are outspent in research and development by key trading partners like Korea and Japan. We need measures that increase the amount of support and funding to research and development, not cutting it back. There is no justification for reducing expenditure on science and research and development.

This is particularly highlighted and underlined by the fact that already, before implementing this measure, we have the lowest expenditure on science, research and innovation since Treasury started publishing data in the late 1970s. We are set to spend less this year than we did in 1979. This is just appalling. This is not the Australia of the 21st century. It is not direction our economy needs to be heading in. We need to be supporting research and development. The R&D tax offset is just one measure that is part of that support for a country that really values science, that values research and development, and that knows where the future of our economy needs to be headed.

The TEMPORARY CHAIRMAN: The question is that schedule 3 stand as printed.

Question negatived.

Senator SINGH (Tasmania) (21:00): by leave—I move items (1) and (2) on sheet 7647 together:

(1) Clause 2, page 2 (table item 2, column 1), omit "Schedules 1 and 2", substitute "Schedule 1".[seafarer tax offset]

(2) Clause 2, page 2 (table item 3, column 1), omit "Schedules 3 and 4", substitute "Schedule 4".[R &D tax offset]

These are consequential amendments required following the support of Labor's amendments that removed schedules 2 and 3 from the bill.

The TEMPORARY CHAIRMAN: The question is that the amendments be agreed to.

Question agreed to.

The TEMPORARY CHAIRMAN: Senator Rice, I am seeking your guidance. You are not seeking to move the amendment on sheet 7665; I understand that is the amendment that Senator Singh just moved?

Senator Rice: Yes, I think our other amendments were consequential.

The TEMPORARY CHAIRMAN: The question is that the bill, as amended, be agreed to.

Question agreed to.

Bill, as amended, agreed to.
Bill reported with amendment; report adopted.

Third Reading

Senator SCULLION (Northern Territory—Minister for Indigenous Affairs and Leader of The Nationals in the Senate) (21:02): I move:
That this bill be now read a third time.
Question agreed to.
Bill read a third time.

Broadcasting and Other Legislation Amendment (Deregulation) Bill 2015

Second Reading

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

(Quorum formed)

Senator CONROY (Victoria—Deputy Leader of the Opposition in the Senate) (21:05): I rise to speak on the Broadcasting and Other Legislation Amendment (Deregulation) Bill 2015. Labor supports this bill. This bill is part of the government's so-called regulation repeal day. This is another government stunt designed to do little more than simply generate a news headline. The former Labor government repealed 16,974 acts and regulations during its time in office. Let me repeat that: the former Labor government repealed 16,974 acts and regulations during its time in office. We called this 'governing'.

This bill saves industry about $350,000 according to estimates from the Department of Communications. Important—yes. But hardly worth a special day. The last time I spoke in this place on red tape repeal it was to amend the Omnibus Repeal Day (Spring 2014) Bill 2014. The Senate agreed to this amendment which would ensure a proper process for Australia's Future Submarine project. Given what has happened in the recent past on this issue, since this amendment was passed, it shows how vital this amendment was; it languishes in the other place, sitting at the bottom of the Notice Paper.

It is another indication that the Prime Minister is still committed to his captain's pick on Japanese submarines.

On the bill before the Senate now, Labor does not propose any amendments. But I do have to note, particularly as there are some South Australians in the chamber today, that this morning in The Australian the government finally admitted that, yes, they did draw up press releases to announce the Japanese had won the submarine contract and they were going to announce it at G20. So despite all of the fabrications that have taken place over the last six months, there is a little paragraph at the end that said: look we might have done a deal with the Japanese before but trust us we have got a proper process in place now. We have misled the entire population of South Australia about our promise to build 12 submarines in Adelaide but trust us, now we have got a proper process. That was part of the last debate on a regulation repeal day bill.

This bill is straightforward and we agree with it. The purpose of the bill is to amend the Broadcasting Services Act 1992, the Radio Communications Act 1992 and the Australian Communications and Media Authority Act 2005. Firstly, it removes a number of provisions in the Broadcasting Services Act which were associated with the simulcast of analogue and
digital TV signals in the transition to digital television. Given the switchover to digital TV roll out is now complete, these changes should be supported. This bill also amends the framework used by the Australian Communications and Media Authority to plan the broadcasting services band spectrum by removing requirements in the Broadcasting Services Act and the Radio Communications Act, which are no longer necessary.

The original bill also made an array of changes to captioning. Here again, Senator Ludlam, is yet another example of the Minister for Communications thinking that he knew best and of him ignoring the concerns of the deaf community. It is a clear sign yet again of this minister’s arrogance and his disregard for the views of others. The original bill sought to remove the requirement of the free-to-air broadcasters to report annually on compliance with their obligations to provide captioning of programs to assist vision and hearing impaired consumers with access to electronic media and to replace this obligations with a complaints based assessment process. It changed aspects of captioning targets obligations for subscription television and the assessment of the quality of captioning of live and pre-recorded broadcast for free-to-air and subscription broadcasters and remove the requirement for a statutory review of captioning obligations.

These provisions were put in without any serious consultation with the affected communities. They did not bother to talk to the blind community. When the minister introduced the bill, he claimed that proper consultation had taken place—perhaps he had a chat to himself in the mirror while shaving, who knows? But what we all know is he was wrong. You always have to be careful when the Minister for Communications talks. He says one thing but he often means the opposite—I am sure his colleagues know exactly what I mean at the moment. It reflects poorly on the management and consultation skills of the Minister for Communications.

On an issue as important as proper process and proper access to television for the hearing impaired, I would have expected better from the person who wants to be Prime Minister. Although the minister failed to properly consult, the opposition did do this work. The deaf community in particular raised concerns with the government's original bill. The deaf community actually said: just a minute, we are a bit worried about this, Minister. The shadow minister for communications has done what the minister should have done. He has been the one who was taken the time to sit down with the affected communities and advocacy groups as well with the broadcasting industry to work through their concerns.

These consultations have resulted in a reasonable compromise, which is why Labor will be supporting this bill. It adopts those compromises that have been worked through with the deaf community and they are now comfortable. Through the work of the shadow minister, this bill will now restore the requirement for free-to-air broadcasters to report annually on their compliance to captioning obligations and restore the statutory review of captioning to occur in 2016. This will allow a comprehensive review of all the issues that concern the deaf community and broadcasters. This is the hard work that the minister for Communications should have done himself. Maybe he is too busy focusing on other matters instead of his own portfolio responsibilities. Who knows? It certainly gave us an insight yet again into the arrogance of the Minister for Communications, who knows better than all of the experts on every issue. It certainly gives us an insight in how the minister operates—something that everyone on the other side of this place should contemplate in the days and months ahead.
The bill we are now debating, which Labor supports, gets the minister out of the mess all of his own making.

Before I finish, I also want to say that Labor will not be supporting the amendment raised by Senator Xenophon. It is not a reflection on him. I know how passionately Senator Xenophon takes the issue of ensuring maximum levels of local content in regional areas, particularly in South Australia. This is a passion that Labor senators share. However, there has been no consultation or engagement on this amendment and no time for the opposition to consider its implications. While we appreciate Senator Xenophon's intentions, we are not in a position to support his amendment without being given enough time to consider its broader applications.

For that reason, Labor do not support Senator Xenophon's amendment, but we do support this now heavily amended bill as put by the government. Once again, we just note that, if the arrogant minister had just been prepared to sit down with the deaf community, there would have been no need for some of the angst that the shadow minister has now had to fix.

Senator LUDLAM (Western Australia) (21:15): I rise tonight to speak on the Broadcasting and Other Legislation Amendment (Deregulation) Bill 2015. I will leave comments on the issue of captioning, which was addressed briefly by Senator Conroy, to my colleague Senator Rachel Siewert. I am going to confine my remarks to another issue that has been canvassed in this legislation tonight, principally around local content on free-to-air television.

I note on behalf of the Australian Greens the degree of compliance by the television industry with the new eligible drama expenditure scheme, which requires a number of subscription TV licensees, channel providers and part channel providers to spend at least 10 per cent of their total programming expenditure on new Australian or New Zealand drama productions or co-productions. I understand that this system is not without its loopholes and its flaws, and it is occasionally given a degree of critique by the industry. Nonetheless, it is a system that works, and it is one of the underpinnings of a vibrant and lively local screen culture here in Australia. It is our view that insufficient evidence has been presented that would indicate that the removal of auditing requirements for this scheme would not result in a lower level of compliance with the scheme.

The Greens believe that the government and the TV sector must continue to strongly support the development of original Australian content. The industry has long enjoyed a fairly favourable and permissive regulatory environment which has driven strong profitability by a number of companies. In this context, we believe it is entirely fit that, in turn, it supports the broader Australian community by generating content that will highlight Australian culture. We know that the commercial TV sector is under a degree of competitive pressure at the moment and that arguments are being raised to either (a) cut licensing fees or (b) water down local content obligations. We think that these obligations are too important to sacrifice.

I draw the chamber's attention to comments by the Communications Law Centre, at UTS, in Sydney, who argue that, if auditing requirements around the new eligible drama expenditure scheme were removed, 'the ACMA should undertake regular compliance monitoring' and that 'the provision of Australian content on a range of platforms' is strongly in the public interest. We concur with these comments. The CLC states:
Although there has been a high level of compliance with these regulatory requirements to date, this does not necessarily mean that these levels of compliance will be attained in the future in the absence of robust regulation.

This is one example, I guess, where the Australian government have seen a regulation and they have decided, as part of this grand theatre of red-tape removal and deregulation, to knock something over that was actually there for a reason. It was there in the public interest, and it was performing a purpose.

The Greens further note comments from Screen Producers Australia which state that 'further analysis' is needed to ascertain the impact of the removal of these auditing requirements. It might seem simple enough to the government to just start wiping these regulations out with the stroke of a pen. We have to be very careful with the unintended consequences—presumably not the intended consequences—of degrading the ability of local Australian writers, producers, actors and everybody in the screen industry to get their work broadcast. SPA state in their submission:

The relative costs and benefits have not been clearly communicated and importantly, the degree to which the high-level of compliance has been achieved as a result of the auditing requirement remains unclear.

People are congratulating the government—this one and the former government—for seeing the industry maintain this degree of compliance, but it may well be that the auditing requirements in the act are precisely what has kept it there. So we recommend that the auditing requirements for the new eligible drama expenditure scheme remain firmly in place.

I want to add some comments as well while we are on the subject of vibrant local screen culture and Australian content. Through you, Madam Acting Deputy President, I respectfully ask the present—at least for the time being—Minister for Communications, Mr Turnbull, to rethink his objection to allowing community broadcasting stations around Australian metropolitan areas spectrum continuity. The idea of knocking these stations over, freeing up the spectrum for purposes that have never actually been made clear to anybody and just having them go and make their way on YouTube and hope that audiences will follow them online I think is incredibly retrograde and quite destructive.

The Australian Greens believe that community TV stations are a really powerful and important part of our cultural mix, particularly in the broadcast space, and that allowing them to just take their chances online is completely unacceptable. If the National Broadband Network had not just had a huge kick in the guts and a massive setback, you might be able to say in four, five or six years that, yes, broadcast is quite clearly moving online and community broadcasters should not only maintain their incumbency but get out there in front of the pack. But the fact is that, if you went in to Channel 7 or any of the big commercial broadcasters tomorrow and said, 'We're pulling your spectrum at the end of 2015; good luck on YouTube,' there would be a riot. I do not understand why this minister thinks it is appropriate to treat community broadcasters that way.

To that end, I would like to now move a second reading amendment. It has only recently been circulated. It is very brief. I move:

At the end of the motion, add:
but the Senate calls on the Australian Government to guarantee continuity of broadcast spectrum to the community television sector; so that community TV stations can continue in their role of training Australian talent and providing much-needed diversity to the Australian media market.

It is not enough to say that, because these broadcasters have small audiences, they should go to the wall. If they have audiences that the communications minister thinks could do with a measure of improvement, let us support the stations. Let us do what we can. Let us find out what they need to increase their reach, because, in an age of incredible concentration of power in the hands of a very small number of corporations and media oligarchs, why on earth would we be taking our precious community TV broadcasters off the air?

I look forward to committing that second reading amendment to a vote. As I indicated at the outset, I will leave the remainder of the comments on behalf of the Australian Greens to my colleague Senator Siewert.

Senator SIEWERT (Western Australia—Australian Greens Whip) (21:22): I rise tonight to speak about the Broadcasting and Other Legislation Amendment (Deregulation) Bill 2015. This bill is just another item on the government’s deregulation agenda. It is clear from the concerns that were raised on this bill during the Senate inquiry that it was introduced with insufficient consultation and without consideration of its impact on viewers, particularly those who are deaf and hearing impaired. The committee inquiry process generated a number of submissions, particularly from the deaf community, which highlighted how little regard this government had paid to those with a hearing impairment and those who are deaf. Given the range of concerns identified, the Australian Greens were not intending to support this bill unamended. However, it is not good enough for the government to continue to bring forward bills that are so heavily biased towards industry—in this case, the commercial TV stations and, in other cases, it has been big mining, big banks and coal exporters.

The government has a critical role in ensuring services are made available on an equal basis to all members of our community. This bill, unamended, would have meant that those services were not being delivered equally. This government seems to have forgotten that it has a commitment and a responsibility to those with hearing impairment, those with disability and those who are least able to afford the impact of these types of decisions. One in six Australians have a hearing impairment and, as our population ages, this will increase to one in four, meaning that there is likely to be increased reliance on television captioning into the future. It is clear from the submissions to this inquiry that TV broadcasters and caption suppliers are keen to respond to the increasing demand for captioning. Captioning frequency and quality has improved significantly over the past decade. Commitments to 100 per cent captioning during 6 am to 12 pm on free-to-air broadcasts are welcome.

However, the deregulation agenda of the current government is, again, adversely impacting on those who can least afford it, do not deserve it and are least able to bear the costs. In this case, it would have been the deaf community. Furthermore, the lack of consultation, which is very clear from the inquiry, has meant that this legislation was produced without appropriate consideration of the impact that it would have had on consumers, broadcasters and the suppliers of captions. I will touch on a range of the issues that highlight the problem with the
original bill so that it is clear why the Australian Greens do not support the rapid deregulation process. It sometimes has intended consequences and sometimes has unintended consequences. There are also issues in this bill that, despite the amendments, we will need to keep a careful eye on to make sure that they do not have adverse impacts.

The bill proposed shifting from an annual reporting compliance scheme, in which broadcasters are required to demonstrate that they meet their captioning obligation, to a consumer complaints mechanism. However, in doing this, the bill did not provide sufficient guarantees that the ACMA will continue to consistently monitor compliance with the captioning quantity and quality requirements or that broadcasters will continue to review and address systemic failures, unless a consumer makes a specific complaint. Effectively, the burden of reporting is shifted from the broadcasters to the individual consumer. A number of consumer representative bodies have argued that this is unacceptable as it makes consumers responsible for policing the broadcasters rather than making broadcasters responsible for demonstrating that they have met their obligations.

The Australian Greens share the perspective of Media Access Australia that reporting is a 'fundamental feature of compliance, consumer protection and efficient market operation, and should be maintained'. An effective consumer complaints mechanism can complement this statutory reporting requirement but should not replace it. Some submissions to the inquiry noted that the current annual reporting process means that there are delays of up to a year in identifying captioning breaches and that in many cases the issues have been resolved by the time the report is submitted. However, they did not demonstrate that a viewer complaints mechanism would result in more timely resolution of systemic failures.

The Australian Greens firmly believe that the responsibility for reporting non-compliance with captioning quality requirements should remain with the broadcaster because, as Media Access Australia noted in their submission, the broadcasters and caption suppliers have the complete records of the programs they have captioned and the technical issues that have occurred. Nevertheless, I do acknowledge that the current reporting regime is overly complex, as demonstrated by Ai-Media in their submission. To ensure that there are still reporting obligations while reducing the regulatory burdens on broadcasters, Ai-Media proposed amending the reporting framework to focus on easier-to-generate yet still verifiable reports, such as 'percentage of captioning target achieved'. This could make reporting simpler for broadcasters and timely and transparent for consumers, without losing the regulatory oversight. Simplified reporting is desirable. A compromise that continues to protect consumers while streamlining the process of reporting could be developed further. Regardless, the burden of reporting should remain on broadcasters, rather than expecting consumers to police the system.

I note that the bill has now been amended to ensure that the statutory review of the legislation is retained. The Australian Greens strongly disagreed with the government's decision to remove this review. The argument—as outlined in the EM—that from December 2013, because a review has been conducted by the department, it is no longer necessary or appropriate to conduct a comprehensive statutory review, is insufficient. Consultation around this bill and the broader reform was inadequate, so there is still clearly a need to review captioning on Australian television against best practise, including the UN Convention on the Rights of Persons with Disabilities. This is particularly important because this bill introduces
three amendments that should be monitored and their impact on service quality should be considered during the review phase.

The first of these is the averaging of captioning targets across subscription sports channels. The lack of clarity among submitters to the inquiry about the operation and impact of averaging captioning quotas across subscription sports channels is further evidence of the inadequacy of the consultation undertaken prior to introducing this legislation. The evidence provided to the committee demonstrated that a consumer who subscribes to a sports package on subscription TV will receive all the sports channels and therefore access the same amount of captioning if the averaging of quota requirements is passed. As stated by Fox Sports in the inquiry, the amendments would assist it 'to direct captioning to programming which is of the greatest interest to audiences' and 'would have no impact on the amount of content captioned across subscription television sports channels'.

On balance, the Australian Greens believe that allowing captioning targets to be averaged will not be detrimental to consumers provided there is a commitment from subscription TV providers to produce information that accurately informs consumers about these changes. However, judging from the anxiety of consumers and consumer groups, this change was not widely understood and could have been better explained. It is our expectation that subscription providers, such as Fox Sports, will take note of these confusions and ensure that it is clear to consumers what they are being offered. This should be considered as part of the review process next year.

The second change to the standards that this bill introduces is an exemption due to technical failures. The bill also creates an exemption to captioning quality standard breaches where the breach is due to technical or engineering difficulties which could not reasonably have been foreseen. This would have the effect of addressing situations such as the one described by Free TV Australia. They said:

There have been instances where the ACMA has accepted that a broadcaster has experienced unforeseen technical difficulties and excused the breach, but has still gone on to find a breach of the licensee's requirement to comply with the Quality Standard (section 130ZZA).

However, I must also acknowledge the concerns of Deaf Australia, who fear that this amendment will give too much scope to broadcasters to shift the responsibility for breaches of captioning standards onto the captioning service provider and avoid penalties even if the technical and engineering failures are clearly systemic. The Australian Greens have not sought to amend the bill at this stage because of this, however the way in which ACMA henceforth treats failures when considering whether a licensee or broadcaster has failed to comply with the captioning standards should form part of the statutory review that is now scheduled to take place next year.

Finally, the application of the live-captioning standards contained in this bill should also be monitored as part of the review process. The Australian Greens support the move to clearly articulate different standard expectations for live versus prerecorded captioning and recognise that the quality of live captioning will always be lower than prerecorded captioning. Regardless of this distinction, the most appropriate captioning method should still be used by broadcasters and in particular higher quality prerecorded captioning for shows that are not broadcast live. We need to ensure with this amendment that standards do not slip.
Clearly this bill had a number of significant problems which may have had a detrimental effect on deaf and hearing impaired consumers of free-to-air and subscription TV services. The Australian Greens are not opposed to updating and simplifying the regulatory framework that governs TV captioning in Australia provided this leads to better outcomes for consumers rather than just broadcasters. The lack of consultation and the original intention to repeal the statutory review both point to an unwillingness to consider how the bill will impact those who are reliant on captions.

In 2015, with our rapidly improving technology, people with a hearing impairment should have no technical barriers to accessing the news and entertainment that other Australians take for granted. Yet without amendment this bill would have primarily served to erode the quality of Australia's TV captioning and contributed to the discrimination that deaf people and those with a hearing impairment face in accessing basic everyday services.

This government should take a hard look at its rush to deregulation in light of the problems with this bill. It should not be up to the hearing impaired community to lobby the parliament at the last minute when they see these issues come up. It should not have got that far. The Greens commend the work of broadcasters who work in this space and particularly the hearing impaired community for pointing out the significant problems that were originally contained in this bill.

Senator XENOPHON (South Australia) (21:34): I wish to make a brief contribution on the Broadcasting and Other Legislation Amendment (Deregulation) Bill 2015. I am in substantial agreement with what Senator Siewert indicated. She is right: it should not be up to the hearing impaired community to raise these serious concerns so at the last minute they are fixed. Senator Conroy made that point. I perhaps would not have made it in exactly those terms, but I am pleased the amendments have gone some considerable way in dealing with the concerns for the hearing impaired community. I think that is unambiguously a good thing.

I indicate my strong support for Senator Ludlam's second reading amendment in respect of community television. Community television is a critical part of community infrastructure. I am concerned they are being left behind. They are in a sense being almost defunded. Not being able to have access to the spectrum is going to destroy community TV. If you look at the history of community TV, you will see all sorts of talent that got an opportunity to develop their skills. It is a very cost-effective training ground for creative talent. I think Rove McManus and many others started on community TV. I think Hamish and Andy did—and I will stand corrected if that is not the case. It is not just the creative on-air talent; it is also the technicians—those who learn how to do camera work and the technical aspects. It is an incredibly valuable training ground.

Because community TV is often run largely by volunteers it is a very cost-effective way of having community engagement and having people learn skills. I think the government has made a mistake. For the cost of keeping community TV alive and prospering, which is next to nothing in terms of the money required, we will end up seeing the dismantling of a very valuable community asset.

I will be moving amendments in respect of this bill. It relates to the Broadcasting Services Amendment (Material of Local Significance) Bill 2013 that I put up. I know that Senator Conroy said that not enough time was provided. In a sense, this bill was subject to a report of the Senate Standing Committees on Environment and Communications, and it is fair to say...
that both the government and the opposition did not support this bill. If there has been a change of heart on the part of the opposition, I would be pleased to discuss that further with the opposition in respect of this.

The thrust of the amendment as contained in my bill, which I will be moving in the course of the committee stage, is to insert a new paragraph (h) into section 43A(2):

The effect of this is to include Regional South Australia in the areas to which regional aggregated commercial television broadcasting licences apply.

Under the Act, broadcasters holding these licences must meet specific conditions set out by ACMA regarding local content and ‘material of local significance’. This will ensure that regional South Australians continue to benefit from news and programming that is relevant to their communities.

The areas currently listed under subsection 43A(2) (excluding Tasmania, which was added in 2008) were originally set out in the Act in the late 1980s. Consideration of the markets in South Australia, Western Australia and the Northern Territory was intended to take place following this, but never occurred.

Given the vast differences in today's broadcasting environment, I believe it is vital that regional markets have equal and adequate protection in South Australia, Western Australia and the Northern Territory.

When I move the amendment, I will make some additional comments in respect of this but that is the thrust of it. In all, I support this bill. I support the Greens' second reading amendment in terms of community television. I think there has been an opportunity lost in respect of this bill; the government could have used this bill as a vehicle to do something about community TV and, indeed, about local regional content.

Senator FIFIELD (Victoria—Manager of Government Business in the Senate and Assistant Minister for Social Services) (21:39): I am assuming there are no other colleagues wishing to make a contribution at this point so I thank all colleagues for their contribution.

As you know, this bill seeks to make amendments to three pieces of legislation to remove unnecessary provisions and reduce the regulatory burden on the broadcasting industry. The bill does form part of the communications portfolios commitment of the Australia government's deregulation agenda and seeks to implement a number of measures identified in the portfolio, in the Deregulation Roadmap 2014, and addresses issues that have been raised through consultation with the broadcasting industry.

The bill repeals the redundant licensing and planning provisions that regulated the digital switch-over and restack processes; amends the ACMA's planning powers to implement a more streamlined process when planning broadcasting spectrum; improves administrative arrangements and provides greater flexibility for the free-to-air and subscription broadcasters in relation to their captioning obligations; extends the time frame for the existing statutory review of captioning requirements by one year, to 31 December 2016; removes the auditing requirements of the annual returns on program expenditure that subscription broadcasters and channel providers lodge with the ACMA and the new eligible drama expenditure scheme; it also addresses anomalies and the provisions relating to overlapping licence areas for media-diversity voices and commercial radio-licence areas and in the grandfathering arrangement relating to licence area population determinations; removes redundant obligations with the ACMA to review classification and time-zone safeguards; and makes consequential
amendments to schedule 4 of the Broadcasting Services Act as a result of the Acts and Instruments (Framework Reform) Bill 2014.

The government does acknowledge the Senate committee's support for removing captioning annual reporting requirements on free-to-air broadcasters and remains committed to moving over time to a compliance model that does not require unnecessary reports. There has indeed been significant consultation undertaken on the proposed captioning amendments, including with Media Access Australia, the Australian Communications Consumer Action Network, the Human Rights Commission, Deafness Forum of Australia, Deaf Australia and the Australian Federation of Disability Organisations. Clearly, the government has taken the feedback from those discussions into account and will consult further on the compliance framework, noting that all sides agree that the existing captioning reporting arrangements are overly complex and onerous.

I also note that the 18th report of the Parliamentary Joint Committee on Human Rights suggests that the proposed automatic exemption from captioning obligations, for new subscription television channels, may be incompatible with the right to equality and nondiscrimination. The government does take its international obligations very seriously. However, with respect to the committee's conclusion, we do not agree that what had been proposed is inconsistent with Australia's human rights obligations.

I think it is important for me to state in unambiguous terms that in no way, shape or form does this legislation alter, diminish or affect in any way the services provided for Australians with hearing impairments. There was, we know, some concern expressed in some quarters. The government did accept amendments in the other place. That was done very much in good faith. We did not believe, and still do not believe, that if our previous proposition had been progressed that it would have affected the services for people with hearing impairment. There is a review, and that review will be undertaken and there will be extensive consultation. But it is very important to underline that there is no diminution, and there was never any intention for diminution, for people who are hearing impaired.

I guess there are about six minutes before we conclude this particular piece of business. While there are things that I am tempted to say in relation to Senator Xenophon's amendment which he shall move, I might leave that and give the chamber the opportunity to conclude this piece of legislation tonight.

The ACTING DEPUTY PRESIDENT (Senator Williams): The question is:

That the amendment moved by Senator Ludlam be agreed to.

The Senate divided. [21:49]

(The Acting Deputy President—Senator Williams)

Ayes ...................... 15
Noes ..................... 39
Majority ............... 24

AYES

Di Natale, R
Lazarus, GP
Madigan, JJ
Muir, R
Rice, J

Hanson-Young, SC
Ludlam, S
Milne, C
Rhiannon, L
Siewert, R (teller)
Question negatived.
Bill read a second time.

ADJOURNMENT

The ACTING DEPUTY PRESIDENT (Senator Williams) (21:52): Order! I propose the question:

That the Senate do now adjourn.

Bandler, Mrs Faith, AC

Tilmouth, Kwementyaye

Senator SCULLION (Northern Territory—Minister for Indigenous Affairs and Leader of The Nationals in the Senate) (21:52): Tonight I want to pay tribute to two very different but great pioneers in Indigenous history, Faith Bandler and Kwementyaye Tilmouth. Last Tuesday, as Minister for Indigenous Affairs, I represented the Prime Minister at the state funeral for Faith Bandler, held at the Great Hall of the University of Sydney. It was a privilege to be there to see how many people had been touched by her life of activism, especially when it came to Indigenous rights. It was due to the tireless work of Ms Bandler and others like her that the 1967 'yes' vote was carried as well as it was. The whole country said 'yes' and, no doubt, that was a great source of great joy to Faith Bandler. Her spirit is an example for us again now as we move ever closer to the referendum for constitutional recognition of Indigenous peoples.
We need the same never-give-up approach, the same integrity and faith in people that Faith Bandler brought to her life. She once said:

My belief is in people. I fix my faith in people. I'm a great believer in the power of people.

When the war was over and Faith left the land army, she got involved with the Margaret Walker dance group. As Faith said:

She had created a lovely dance that revealed the discrimination against Aboriginal people, and then she took that—she made up her mind to take that dance to a festival in Berlin. And so I went off to Europe as a dancer—would you believe? It's crazy, isn't it? So I went off to Europe and I went, actually, through Western Europe as well as Eastern Europe. And I went to see the Dachau concentration camp. And I saw Europe five, six years after the war, and it had a very deep impact on my life. I couldn't believe that as I walked around Berlin or Warsaw, Budapest, I might well be walking over so many bodies buried beneath the rubble. Terrible. Just dreadful.

So Faith Bandler's horizons widened. The first organisation she was involved in to change government legislation was a state organisation called the Aboriginal-Australian Fellowship. Faith and Pearl Gibbs founded it to campaign against the Aboriginal Welfare Board. This board controlled the movements of Aboriginal people locked away in reservations. In 1969 they achieved their goal. Jessie Street was a patron of the fellowship and had written up a petition for the referendum. In Faith's own words:

… Jessie actually placed that in my hands and said to me, 'There you are. Now go and get yourself a referendum.'

At that time each state had its own laws on Indigenous people. As Faith put it:

… they created such tremendous confusion. You could be a relatively free person walking around Victoria and you come to New South Wales and you'd find you've got to go up to Bridge Street in Sydney to get permission if you can go and see your Uncle or Aunt, if you please. Then if you move over the border into Queensland—well, the very fact that you got over the border in Queensland—you could be arrested without reason. So there was a great need to abolish those state laws and to bring everyone under the common law—the federal law—with incidentally, the migrants who'd come recently, who have all the protection and privileges of the federal law. So that is the main reason why it was important to have a referendum. We had to change the federal Constitution.

So they got the handbills out. They went to the wharffles and the Seamen's Union and a few other unions and said: 'Would you circulate these? We're going to have a public meeting in the town hall, and we're launching a petition for a federal referendum on the rights of Aboriginals.' The unions took them and took the petition and the handbills, particularly the Seamen's Union, and dropped them in all the ports around Australia.

That was the founding, as Faith Bandler says, of the organisation that brought about major changes in the Federal Constitution—the referendum that changed the Constitution in 1967. They worked on that referendum from 1957 to 1967. For those who get frustrated about our current attempts across parties in this place, have faith; it will happen.

Faith's attitude to life was:

I don't think that we human beings should go about changing or trying to improve situations that are drastic for other human beings and expect to be rewarded This is what life is about. It's about getting up and helping each other and doing the best we can to live raise people out of their misery. I don't think that those people who worked for that referendum thought about rewards or thought about acknowledgment and I certainly didn't … I see it just as a human being's duty to get involved in raising people to be equals in society.
Faith then turned her efforts to her own people, the South Sea Islanders, and campaigned for them to have the same support as Indigenous people, except for land rights. She returned to the island where her father came from and had an overwhelming experience of being where she belonged. Faith Bandler: a life lived for others. May she rest in peace.

I would now like to talk about the passing of a good mate of mine, Kwementyaye Tilmouth. He has another name, but for cultural reasons I am referring to him as Kwementyaye. I have known Kwementyaye for many years. He dedicated himself to improving the lives of Indigenous people and fought fearlessly against negative attitudes and racism. Born in The Gap in Alice Springs, Kwementyaye was raised on Croker Island as a member of the stolen generation. He did not see some of his brothers and sisters again until he was a grown man. He tells a good yarn about being at the Alice Springs airport. He said: 'We were joking about this old Aboriginal bloke who looked like Yogi Bear. We didn't know who he was. The welfare bloke turned up and said, "Oh, you're the Tilmouth boys. This is your father. Oh, and, by the way, sorry to tell you but your mother died."'

That was the introduction to family in Alice Springs. They then went to high school in Darwin, staying for three years. As to the origin of his nickname, Michael Gordon of The Age wrote: 'In time, [Patrick] Dodson became his mentor and gave him his nickname because his initials, LBT, could stand for "little black Kwementyaye".' His first job was sweeping the floor at an abattoir, but he went on to work as a stockman at the Angas Downs station near Alice Springs. He went on to study in South Australia, gaining a degree in science and natural resource management, which he used and excelled in later in life.

Kwementyaye later helped establish the Central Australian Aboriginal Legal Service and Health Service. He also served as a director of the Central Land Council, the statutory authority representing Aboriginal people in an area of over 776,000 square kilometres in the southern half of the Northern Territory. This was a period of huge turmoil for the Central Land Council and it was due to Kwementyaye that they came out a strong and well-respected organisation. Education of Indigenous people was crucially important to Kwementyaye. He said, 'If you want to wipe out an Indigenous group, the first thing you do is remove education.' He said that in 2007. This relates back to what we are trying to do today—to get school attendance up. That is the single most important feature in being able to get work and have a good life with a family in safe communities.

This always relates, I think, and has an effect on what we are trying to do today. We are trying to get school attendance up, because that is the single most important feature in being able to get work and have a good life with a family in safe communities. Kwementyaye spent a lot of his time fighting for improved access to education for Indigenous students. He was also a firm believer in Indigenous people having the opportunity to build an economically sustainable future. Education. Jobs. Business. These were the goals Kwementyaye Tilmouth pursued in the entire time that I knew him.

A long-time member of the Labor Party, he was the frontrunner to be pre-selected as the party's senator for the Northern Territory in the late nineties before pulling out of the contest. He says he just could not be tied down, and he was a singular individual. Chief Minister Adam Giles said:

I would have sincerely liked to have seen Mr Tilmouth take his passion for Aboriginal advancement to Canberra. He would have been the best Labor senator never to be preselected.
And that is no slight on the current and past senators from the Northern Territory. The Northern Territory government has offered his family a state funeral.

Kwementyaye actually was not very impressed with the apology to the Stolen Generations. He said:
I'll go the big party at the end of the day when everything is done.

We are still working on it, Kwementyaye. It is going to take a bit longer without you.

Kwementyaye described former Prime Minister and good friend Mr Rudd as:
… going around hugging people and carrying on like a pork chop …

He said of the then prime minister and friend:
Every time he sees me he hugs me.
I have to tell him now ‘release’ because he won't let go.

He was a completely irreverent character, and I know I can relate that anecdote as I know that he and Mr Rudd were good friends. Almost everything he said and did was full of irreverence, but he had the capacity to reach across every political divide and had the capacity to influence so many people in this place and the other and at a state and territory level. Kwementyaye was a tough man, stoic in the face in the face of adversity. Whilst he was receiving medical treatment, he jokes he was the only patient to put on weight whilst receiving chemo.

Kwementyaye was someone who stood up for countrymen at every turn. He was a fighter for the mob, an extremely generous man who was as sharp as a whip and just as insightful. He was characterised by his family, unsurprisingly, as unorthodox and he was as irreverent at home as he was in public. Kwementyaye has always been there, right in the middle of it. He will be sorely missed by all Indigenous people. It was a real pleasure knowing him as long as I did. His passing is a great loss, and I extend my condolences to his wife, Kathy, and three daughters, Shaneen, Cathryn and Amanda.

The tributes, Kwementyaye, are glowing. To some he had great stature. To others he was a true hero. To others he was a man who will never be forgotten. Bundle them all up and you have a legend. I will conclude with some self-analysis by Kwemenyaye in his own words:

We don't lie down, we never laid down, we have some sting in us. We're non-conformist.

If we was a weed we'd be bloody good I tell ya.

Vale Kwementyaye. You will be missed, mate.

Ovarian Cancer

Senator BILYK (Tasmania—Deputy Opposition Whip in the Senate) (22:02): As many in this place would be aware, February was Ovarian Cancer Awareness Month. Ovarian Cancer Australia organises the awareness month, and one of the key features is Teal Ribbon Day, which was held this year on Wednesday, 25 February 2015. On Teal Ribbon Day I attended a breakfast here in Parliament House. The event was well attended by senators, members from the other place, the Prime Minister, and the Opposition Leader, Bill Shorten. Members of Ovarian Cancer Australia’s Medical and Research Advisory Group, their high-profile ambassadors and corporate partners were also in attendance.
Paula Benson, Chair of Ovarian Cancer Australia, gave a fantastic speech at this event, and I would like to take a few moments tonight to reiterate Paula's comments for those in this place who were unable to attend and for those listening in at home. This is Paula's speech:

Since 2001, Ovarian Cancer Australia has provided support for women and their families, raised community awareness of ovarian cancer and advocated for improved services for women. Whilst we have made great strides in raising awareness of ovarian cancer and its symptoms, the majority of women diagnosed have a poor prognosis: only 43 per cent of women with ovarian cancer will survive for five years after their diagnosis—this compares to 92 per cent for prostate cancer and 89 per cent for breast cancer. To compound the issue, ovarian cancer has a high rate of recurrence and the disease often develops resistance to treatment so that women essentially run out of options.

These terrible outcomes for women with ovarian cancer were the catalyst for Ovarian Cancer Australia's decision, announced here one year ago today, to develop a National Action Plan for ovarian cancer. We knew that in order to make the greatest possible impact we needed not only to fund the best ovarian cancer research in Australia but to focus and unify national ovarian cancer research efforts.

Paula continued by outlining their plan for ovarian cancer research, saying:

I am proud to advise you that in November 2014, together with our colleagues across the ovarian cancer community, we launched a National Action Plan for ovarian cancer research. The plan sets out urgent priorities for the way in which Australia needs to tackle research to significantly reduce the number of women dying from the disease. This plan is a watershed for the ovarian cancer community—a community that has waited long enough. In developing the plan we undertook an audit of ovarian cancer research across Australia and extensive consultation with researchers, clinicians and industry experts, and women with ovarian cancer.

I am extremely proud of what we have created. It is the first time a national plan has been developed. It provides priority driven focus for investment, unifying the efforts and providing a blueprint for researchers and funders from around Australia. It also includes a charter setting out principles for ovarian cancer research excellence and calls for researchers to align with these.

As part of our plan, Ovarian Cancer Australia announced a $1 million funding contribution to support critical infrastructure priorities identified in the plan, including a $900,000 funding partnership between Ovarian Cancer Australia and the Peter MacCallum Cancer Centre.

Paula continued on to mention in this part that Professor David Bowtell would talk further about this partnership and his work with the Australian ovarian cancer study. Professor Bowtell is the head of the Peter MacCallum cancer genetics laboratory and is the recipient of the Jeannie Ferris Cancer Australia Recognition Award from Cancer Australia for his exceptional research into ovarian cancer. I know that many people in this place know Jeannie Ferris and remember her fondly. She was a former senator for South Australia who was diagnosed with ovarian cancer in October 2005 and unfortunately passes away in April 2007.

Professor Bowtell in 2001 initiated the Australian Ovarian Cancer Study, which over the last decade has become the largest molecular epidemiological study of ovarian cancer in the world. Paula went on to state that she believes that progress is infinitely achievable through collaborative, strategic efforts. She then expressed her sincere thanks to all organisations and individuals who contributed to the development of the plan and invited all those present with an interest in ovarian cancer research to help us to take the plan forward. For those listening at home, the plan is available on Ovarian Cancer Australia's website at ovariancancer.net.au.

Paula continued by outlining Ovarian Cancer Australia's forward vision, stating:
Ovarian Cancer Australia will play our role in taking the plan forward and today I announce our 25/25 Vision.

Our 25/25 Vision aims to improve the five year survival rate of ovarian cancer by 25% by the year 2025.

Ovarian Cancer Australia's 25/25 vision aligns with the World Health Organisation 2013 World Cancer Declaration that calls for cancer societies around the world to collectively work on targets to reduce the burden of all cancers by 25% by 2025.

That will be done in three ways: improving awareness and early diagnosis, improving the identification of women at greatest risk, and increasing access to effective treatments and care. Paula went on to say, 'This won't be an easy task, and that's why we are calling on all Australians to pledge their support for our vision.'

I agree with Paula that now is the time to take action against this disease that claims the lives of 1,000 Australian women every year and impacts countless more. I urge everyone to get behind the vision and encourage those in your networks to do the same. Along with Ovarian Cancer Australia, I too look forward to changing the story of ovarian cancer to one of hope and optimism. During her speech, Paula also took the opportunity to thank Bridget Whelan for her tireless commitment to improving the outcomes of women diagnosed with ovarian cancer in the future, and for her incredible support for our organisation over the past few years. A number of people in this place would know Bridget Whelan. I have known her for a number of years, and she used to work for the former senator Mark Arbib. I have to say, it was a great honour to be at this event with both Paula and Bridget. I would like to add my own words of thanks to both Paula and Bridget for all the hard work they continue to do in raising awareness for ovarian cancer.

I encourage everyone to take a look at Ovarian Cancer Australia's website. I would especially encourage women to familiarise themselves with the symptoms and to attend events that raise money for and awareness of ovarian cancer. I think that if we can help attain that goal of 25/25 then we will be doing all women a great service.

**Tasmania: Fish Farming**

**Senator WHISH-WILSON** (Tasmania) (22:10): I seek leave to table a report.

Leave granted.

**Senator WHISH-WILSON:** I table this report with the best interests not just of the Tasmanian environment at heart but also of the salmon industry. I rise tonight to talk about a growing risk for the environment for the fish farm industry on Tasmania’s west coast. The Greens were anonymously given a copy of a draft confidential report from the Macquarie Harbour dissolved oxygen working group dated 24 August 2014. This group is made up of representatives from the fish farm industry, CSIRO, IMAS, water consultants and the state government primary industries department and was formed to determine the extent of the dissolved oxygen problem and what was causing it.

A good level of dissolved oxygen is essential for aquatic life. It is a key barometer of water quality. According to the report, from 2009 to August 2014 there was a clear downward trend in the dissolved oxygen levels of the harbour’s deep waters—that is, water deeper than 15 metres. As the report states:
Isolation of deep water in the harbour has resulted in a naturally low dissolved oxygen environment that may be vulnerable to further increases in oxygen demand. Dissolved oxygen levels have been declining since 2009 and further decreases may have a direct impact on both the ecology of the harbour and aquaculture production.

Specifically, dissolved oxygen levels less than 2 milligrams per litre are now very common below 20 metres and occasionally come to within 12 metres of the surface.

The report points to a number of factors that could be responsible for the plunge in oxygen levels, including changes in Hydro Tasmania's dam releases, low rainfall, high river flows and a significant expansion of fish farms over the same period. The report acknowledges that several indicators of marine health are not being measured in Macquarie Harbour, such as pelagic biological oxygen demand and labile carbon. In 2010-11 environment groups and the Greens were criticised for calling for better baseline scientific data and rigorous monitoring before fish farms were permitted to expand in Macquarie Harbour. And now we see that there is still not enough data for us to understand what it is going on.

This report recommends continuing current monitoring and adding those indicators not currently measured as the group decided that it needed further data before the decline in dissolved oxygen can be definitively attributed. It also recommends developing a detailed carbon, nitrogen and oxygen budget for the harbour; that hydrodynamic and biogeochemical modelling should use past conditions to examine future scenarios relating to changed river flows and salmon production; and exploring how fish farms could adapt management according to dissolved oxygen fluctuations and river discharge conditions.

Macquarie Harbour is on the doorstep to the World Heritage Area and is home to nationally threatened animals such as the maugean skate. If dissolved oxygen levels in the harbour are compromising fish farms, that threatens not only their viability but the survival of our native animals. If the Macquarie Harbour aquatic and benthic environment is compromised, this is likely to have adverse impacts on sustainable stock biomass, including bacterial issues impacting fish health and costs of production, such as an increased use of antibiotics. This report suggests an immediate response from the government on this issue. The fact that it was anonymously leaked to us probably suggests a lack of action since it was first published. But I would be happy to be proven wrong. Tasmanian Premier Mr Hodgman and Minister Rockliff should come clean on what is going on in Macquarie Harbour. What information do they have relating to this report's findings?

What does the Environmental Protection Agency know about changing oxygen levels in Macquarie Harbour?

If nationally listed threatened species are all at risk then, under the Environment Protection Biodiversity and Conservation Act, the state government needs to alert the Commonwealth minister. Has this happened? If not, why not?

In 2012 the Commonwealth determined that fish farm expansion was not a controlled action under the EPBC Act but, now that the water quality appears to be deteriorating, should this decision be reviewed?

I intend to write to the Commonwealth minister, urging him to investigate whether the state government is doing the right thing by industry and by threatened species in Macquarie Harbour. Fish farms have emerged as a significant player in Tasmania and they have certainly played off Tasmania's clean, green brand.
To me, it seems logical that stakeholders in the industry, especially the three big salmon producers, would be pushing the government to take action to resolve or prevent any dissolved oxygen problem and would willingly agree to change their practices to avert potential adverse environmental or economic impacts.

Is the Tasmanian government knowingly allowing companies to get away with farming practices that could impede effective action? The Greens believe the Tasmanian government should be taking a precautionary approach until it can better understand what is going on in the harbour. Fish farm stocking rates should be kept under any current limit and should not be increased until there is a definitive answer to the dissolved oxygen problem and what is causing it.

These leaked documents suggest Macquarie Harbour is potentially a ticking time bomb not just for the environment but potentially for the economic sustainability of the Tasmanian salmon industry and the many Tasmanians it employs—something that I know you, Mr President, understand.

If Tasmania's clean, green brand is to have integrity and longevity, the state and federal governments must work with stakeholders and act quickly to understand and rectify potential environmental problems. And they must do so with transparency.

**Deregulation**

**Senator McGrath** (Queensland) (22:16): Tonight I wish to talk about freedom and red tape. But before I talk about freedom I wish to pay tribute to the good and hardy souls of Central Queensland, not to mention those in the Northern Territory, who were recently lashed by cyclones. While all in this chamber are relieved at the minimal injuries and that there was no loss of life, hundreds of homes were destroyed not to mention countless businesses and farms.

Queensland is a violent weather state. It has always been so and, ignoring the hokey-pokey from the Greens and others about climate change, we will always have tough weather north of the Tweed. Indeed, one of my first memories as a young boy is of hiding with my family in the bathroom on our farm as a cyclone passed overhead.

To the young people in Rockhampton and the Northern Territory who experienced the cyclones, with the first of the many strong weather systems that they will experience throughout their lives, and to all those working on the recovery, we thank you for your endurance and stamina. It will be many weeks and months, if not years, before Central Queensland fully recovers from the cyclones.

But onwards to freedom. I think many will know I am passionate about freedom—freedom of the individual, freedom of the family, freedom of business and freedom from the interfering nannying bosses of government. The great schism in this chamber and indeed in this parliament, if not in society, is the outlier on where people stand and deliver on the freedom agenda.

The Left claim to believe in freedom but only when it is about the freedom of government and bureaucrats to interfere. Under the Left, the government is always free but the people are enslaved and enveloped by the government's actions. Like biker bouncers at an outlaw biker club, they reject all but their own. One of the greatest tests of freedom is the approach to red
and green tape. It is probably not the sexiest issue around but one of the most important issues in determining the freedom of individuals, businesses and families.

Those opposite, senators in the Labor Party and the Greens Party, think that the world's problems can be solved through regulation, through words on a page and through the use of government to suppress the freedom of individuals and enterprises.

However, as a defender of freedom, I take a very different view. Since entering this place, I have spoken on several occasions of my commitment to monitor government action in relation to red and green tape and to report back to the people of Queensland on this important issue each year.

Tonight I would like to discuss some of the promising steps that have been taken to slash red and green tape and to highlight some areas for continuous improvement.

The red-tape reduction agenda of this coalition government has been one of its great success stories. So far, following two designated repeal days and a cohesive whole-of-government focus on red-tape reduction, this government has removed over 10,000 pieces of redundant legislation and 50,000 pages of regulation. These historic changes have already delivered savings of over $2 billion in lower compliance costs for Australian businesses and workers.

This government—my government, our government—has also announced more than 400 measures to cut red tape across the board, from environment to education, health to human services, Treasury to trade. Some of these measures are far reaching. Let us start with the biggest one: the repeal of the Labor-Greens carbon tax, the largest carbon tax anywhere in the world! This reduction in red tape has seen electricity prices across Australia fall significantly, reducing the cost of living for families.

Then there is the one-stop-shop for environmental approvals that will unleash billions of dollars in additional investment at a critical time when our economy is rebalancing away from the mining sector. Others are smaller but no less significant. We have removed the need for motorcycles in Australia to be retrofitted with rear mudguards, affecting 70,000 new motorcycles every year, saving $14 million and bringing us into line with other comparable countries, such as the United Kingdom.

We have designed new livestock identification processes so that farmers will no longer have to place little green tags on the tails of cattle exported to Europe. And commercial property agents will no longer need to pay up to $13,000 for a Building Energy Efficiency Certificate—whatever that is—before they are allowed to engage in negotiations with a prospective buyer or lessee.

These are all examples of this coalition government's changes, making a real difference in communities across Australia. And the good news is: this is just the start of delivering on the coalition's election promise to reduce red tape by $1 billion every year.

As a backbench senator, I see one of my roles as that of ensuring the government keeps on delivering. I was disappointed and concerned to see that, last Wednesday, the Australian Chamber of Commerce and Industry released its annual red-tape survey. These results make for rather sober reading. Despite the successes of the coalition government in delivering on its agenda, only one per cent of businesses surveyed thought the burden of regulation was lower than 12 months ago, 24 per cent of businesses surveyed thought the burden of regulation was
about the same, while a whopping 73 per cent businesses surveyed thought the burden of regulation was higher. So there is a lot more to be done in terms of reducing red tape and communicating to the business community about what we are achieving.

To ensure that I am doing my bit, I have started a local campaign on the Sunshine Coast, where my office is based. The Sunshine Coast is a hotbed of small businesses. There are over 30,000 registered small businesses on the Sunshine Coast, each making a valuable contribution not just to the Sunshine Coast economy but to the whole Queensland economy. In October last year, I surveyed the local business community across the Sunshine Coast about their concerns and a number of consistent themes have emerged so far, including the complexity of our taxation system, the onerous nature of employment and workplace relations law and the attitude of government to boosting infrastructure investment.

I am happy to say that several weeks ago I hosted Assistant Treasurer Josh Frydenberg, along with my Liberal National Party colleague Senator Matt Canavan and the Sunshine Coast Mayor Mark Jamieson at a business breakfast roundtable at the Maroochy Surf Club. Here the business community rambled home what they wanted to see from the federal government in terms of delivering on that infrastructure, on reducing the complexity of the taxation system and making it easier to employ people. There were over 70 representatives from the local businesses there which for the Sunshine Coast is a pretty big turnout for a breakfast. We have a lot more to do, because choosing to go into business is pretty tough at the moment, because it allows the businesses to decide to exercise their freedom. And the role of government is to be on the side of business, not to be on the side of bureaucracy and on the side of red tape. As policymakers, we should endeavour to make it as easy as possible for businesses to thrive and grow, to create jobs for their families and communities, and to deliver the goods and services that Australians want.

On a final point, I would like to thank Clare Siddins from my office who has been working on this red tape report with me. She is expecting her second baby tomorrow and I wish her the best of luck. She is due back at work in a couple of weeks time, so thank you and good luck, Clare.

**Senate adjourned at 22:24**

**DOCUMENTS**

**Tabling**

The following documents were tabled by the Clerk pursuant to statute:

[Legislative instruments are identified by a Federal Register of Legislative Instruments (FRLI) number. An explanatory statement is tabled with an instrument unless otherwise indicated by an asterisk.]

*Australian Communications and Media Authority Act 2005*—Radiocommunications (Interpretation) Determination 2015 [F2015L00178].


*Australian Prudential Regulation Authority Act 1998*—Australian Prudential Regulation Authority (confidentiality) determinations—

  - No. 2 of 2015 [F2015L00172].
  - No. 3 of 2015 [F2015L00193].
Broadcasting Services Act 1992—
Broadcasting Services (Events) Notice (No. 1) 2010—Amendment No. 1 of 2015 [F2015L00133].
Datacasting Charge (Collection) Determination 2015 [F2015L00177].
Carbon Credits (Carbon Farming Initiative) Act 2011—
Carbon Credits (Carbon Farming Initiative—Aviation) Methodology Determination 2015 [F2015L00161].
Carbon Credits (Carbon Farming Initiative—Avoided Clearing of Native Regrowth) Methodology Determination 2015 [F2015L00164].
Carbon Credits (Carbon Farming Initiative—Coal Mine Waste Gas) Methodology Determination 2015 [F2015L00162].
Carbon Credits (Carbon Farming Initiative—Land and Sea Transport) Methodology Determination 2015 [F2015L00163].
Carbon Credits (Carbon Farming Initiative) Rule 2015 [F2015L00156].
Civil Aviation Act 1988—
Civil Aviation Regulations 1988 and Civil Aviation Safety Regulations 1998—
Authorisations, approval, permission, directions and exemption — helicopter operations (Aeropower)—CASA 16/15 [F2015L00203].
Exemption and permission — Avalon Airshow 2015 — aircraft to be flown without radiocommunication systems—CASA EX33/15 [F2015L00168].
Civil Aviation Safety Regulations 1998—
Exemption — aeronautical experience requirements for grant of commercial pilot licences — aeroplane category—CASA EX22/15 [F2015L00130].
Exemption — low-level operations at air displays—CASA EX26/15 [F2015L00159].
Exemption — navigation and anti-collision lights (Aerorescue)—CASA EX40/15 [F2015L00204].
Exemption — operations by sport and recreational aircraft in restricted area R979A (Avalon Air Show 2015)—CASA EX29/15 [F2015L00149].
Exemption — power-assisted glider at the Australian International Air Show, Avalon—CASA EX30/15 [F2015L00148].
Exemption — solo flight training using ultralight aeroplanes registered with the RAA at Bankstown Aerodrome—CASA EX28/15 [F2015L00154].
Exemption — turns after take-off at Australian International Air Show—CASA EX31/15 [F2015L00150].
Main Rotor Blades—AD/R44/25 [F2015L00202].
Commissioner of Taxation—Public Rulings—
Class Rulings—
Addendum—CR 2002/83.
CR 2015/7-CR 2015/12.
Taxation Determinations—
Erratum—TD 92/130.

Corporations Act 2001—
Amendments to Australian Accounting Standards arising from AASB 9 (December 2014)—AASB 2014-7 [F2015L00135].
Amendments to Australian Accounting Standards arising from the Withdrawal of AASB 1031 Materiality – January 2015—AASB 2015-3 [F2015L00134].
Amendments to Australian Accounting Standards – Sale or Contribution of Assets between an Investor and its Associate or Joint Venture – December 2014—AASB 2014-10 [F2015L00138].
ASIC Derivative Transaction Rules (Reporting) Amendment 2015 (No. 1) [F2015L00132].
Corporations Amendment (Register of Relevant Providers) Regulation 2015—Select Legislative Instrument 2015 No. 3 [F2015L00152].
Corporations (Fees) Act 2001—Corporations (Fees) Amendment (Register of Relevant Providers) Regulation 2015—Select Legislative Instrument 2015 No. 4 [F2015L00153].
Currency Act 1965—
Currency (Perth Mint) Determination 2015 (No. 1) [F2015L00158].
Currency (Royal Australian Mint) Determination 2015 (No. 2) [F2015L00169].
Currency (Royal Australian Mint) Determination 2015 (No. 3) [F2015L00170].
Defence Act 1903—Woomera Prohibited Area Rule 2014—Determination of Exclusion Periods for Amber Zone 1 and Amber Zone 2 for Financial Year 2014-2015 Amendment No. 2 [F2015L00155].
Environment Protection and Biodiversity Conservation Act 1999—
Amendment of List of Exempt Native Specimens – Queensland East Coast Inshore Fin Fish Fishery (23 February 2015) (deletion)—EPBC303DC/SFS/2015/07 [F2015L00213].
Amendment of List of Exempt Native Specimens – Queensland East Coast Inshore Fin Fish Fishery (23 February 2015) (inclusion)—EPBC303DC/SFS/2015/08 [F2015L00214].
Amendment of List of Exempt Native Specimens – Queensland Mud Crab Fishery (12 February 2015)—EPBC303DC/SFS/2015/03 [F2015L00165].

Amendment to the lists of threatened species, threatened ecological communities and key threatening processes under sections 178, 181 and 183 (171) (4 February 2015) [F2015L00146].

Inclusion of ecological communities in the list of threatened ecological communities under section 181 – Natural Damp Grassland of the Victorian Coastal Plains (EC 133) (4 February 2015) [F2015L00174].


Fisheries Management Act 1991—Fisheries Management (Southern and Eastern Scalefish and Shark Fishery, Pink Ling) Temporary Order 2015 No. 1 [F2015L00144].


Food Standards (Application A1096 – Xylanase from Bacillus licheniformis as a Processing Aid (Enzyme)) Variation [F2015L00197].

Food Standards (Proposal P1022 – Primary Production and Processing Requirements for Raw Milk Products) Variation [F2015L00198].


Legislative Instruments Act 2003—

Legislative Instruments (Deferral of Sunsetting—Legislative Instruments Regulations) Certificate 2015 [F2015L00151].

Legislative Instruments (Deferral of Sunsetting—Quarantine Instruments) Certificate 2015 [F2015L00157].

Migration Act 1958—Direction under section 499—Priority for considering and disposing of applications for specified visas made by persons who reside, or have resided, in an Ebola Virus Disease affected country—No. 64.

National Consumer Credit Protection Act 2009—ASIC Class Order—CO 15/130 [F2015L00195].

National Health Act 1953—

National Health Determination under paragraph 98C(1) (b) Amendment 2015 (No. 2)—PB 12 of 2015 [F2015L00207].

National Health (Listing of Pharmaceutical Benefits) Amendment Instrument 2015 (No. 2)—PB 10 of 2015 [F2015L00205].


National Health (Prescriber bag supplies) Amendment Determination 2015 (No. 2)—PB 14 of 2015 [F2015L00209].

National Health (Price and Special Patient Contribution) Amendment Determination 2015 (No. 1)—PB 11 of 2015 [F2015L00208].

Privacy Act 1988—
Privacy (International Money Transfers) Generalising Determination 2015 [F2015L00201].
Privacy (International Money Transfers) Public Interest Determination 2015 (No. 1) [F2015L00199].
Privacy (International Money Transfers) Public Interest Determination 2015 (No. 2) [F2015L00200].

Public Governance, Performance and Accountability Act 2013—Commonwealth has acquired shares
in NBN Co Limited [4]—23 February 2015.

Public Governance, Performance and Accountability Act 2013, High Court of Australia Act 1979,
Aboriginal and Torres Strait Islander Act 2005, Defence Service Homes Act 1918 and Natural Heritage
Trust of Australia Act 1997—Public Governance, Performance and Accountability (Financial
Reporting) Rule 2015 [F2015L00131].

Determination 2015 [F2015L00210].

Radiocommunications Taxes Collection Act 1983—Radiocommunications Taxes Collection
(Penalties on Unpaid Tax) Determination 2015 [F2015L00179].

Remuneration Tribunal Act 1973—Remuneration and Allowances for Holders of Public Office—
Remuneration Tribunal Determination 2015/01 [F2015L00173].

Determination 2015 (No. 2) [F2015L00212].

Sydney Airport Curfew Act 1995—Sydney Airport Curfew (Curfew Aircraft) Instrument 2015
[F2015L00142].

Telecommunications Act 1997—
Telecommunications Disability Standard (Requirements for Customer Equipment for use with the
Standard Telephone Service — Features for special needs of persons with disabilities — AS/ACIF
S040) 2015 [F2015L00191].

Telecommunications (Labelling Notice for Customer Equipment and Customer Cabling) Instrument
2015 [F2015L00190].

Telecommunications (Revocation of Technical Standards) Instrument 2015 (No. 1) [F2015L00194].

Telecommunications Technical Standard (Analogue Interworking and Non-interference
Requirements for Customer Equipment for Connection to the Public Switched Telephone Network —
AS/CA S002) 2015 [F2015L00184].

Telecommunications Technical Standard (Requirements for Connection to an Air Interface of a

Telecommunications Technical Standard (Requirements for Customer Access Equipment for
connection to a Telecommunications Network – AS/CA S003) 2015 [F2015L00183].

Telecommunications Technical Standard (Requirements for customer cabling products – AS/CA
S008) 2015 [F2015L00182].

Telecommunications Technical Standard (Requirements for Customer Equipment for connection to

Telecommunications Technical Standard (Requirements for Customer Equipment with hierarchical

Telecommunications Technical Standard (Requirements for DSL Customer Equipment for
connection to the Public Switched Telephone Network – AS/ACIF S041) 2015 [F2015L00187].

Telecommunications Technical Standard (Requirements for ISDN Basic Access Interface –
AS/ACIF S031) 2015 [F2015L00180].
Telecommunications Technical Standard (Requirements for ISDN Primary Rate Access Interface – AS/ACIF S038) 2015 [F2015L00185].


Telecommunications (Carrier Licence Charges) Act 1997—Determination under paragraph 15(1)(b)—No. 1 of 2015 [F2015L00167].

Tabling

The following documents were tabled pursuant to standing order 61(1)(b):

[Documents presented since the last sitting of the Senate, pursuant to standing order 166, were authorised for publication on the dates indicated]


Auditor-General—Audit reports for 2014-15—

No. 22—Performance audit—Administration of the Indigenous Legal Assistance Programme: Attorney-General’s Department. [Received 17 February 2015]

No. 23—Performance audit—Administration of the Early Years Quality Fund: Department of Education and Training; Department of Finance; Department of the Prime Minister and Cabinet. [Received 17 February 2015]

No. 24—Performance audit—Managing assets and contracts at Parliament House: Department of Parliamentary Services.

Australian Broadcasting Corporation (ABC)—Equity and diversity—Report for the period 1 September 2013 to 31 August 2014. [Received 13 February 2015]


Department of Finance—Campaign advertising by Australian government departments and agencies—Report for 2013-14. [Received 19 February 2015]

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Productivity Commission—Report No. 73—Childcare and early childhood learning (2 volumes), dated 31 October 2014. [Received 20 February 2015]
Sydney Airport Demand Management Act 1997—Quarterly report on the maximum movement limit for Sydney Airport for the period 1 October to 31 December 2014.
Taxation—Corporate tax avoidance—Letters to the President of the Senate from the Treasurer (Mr Hockey), dated 19 February 2015, responding to the resolutions of the Senate of 2 October 2014 and 9 February 2015 [2].

**Order for the Production of Documents**

The following document was tabled by the Clerk pursuant to the order of the Senate of 25 June 2015: